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NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

MARCH 2024

Excellence in North Dakota public education through local school board governance ■ VOL XLIX ISSUE 3

Applicants Needed for State Board of Public School Education

There are two positions on the State Board of Public School Education that will become vacant on July 1, 2024 (N.D.C.C. 15.1-01-01). The work of the board involves deciding school district requests to transfer property, reorganize, or dissolve. Its members are also part of the state Board of Career and Technical Education, which supervises North Dakota's CTE agency and its programs.

Six of the board's members each represent groups of counties that are specified in state law. The governor appoints them to six-year terms. There

is no limit on the number of terms an individual may serve, but you must reapply for appointment each time. The two members of the board who have terms ending represent the following counties:

- Barnes, Cass, Grand Forks, Griggs, Nelson, Steele, and Traill; and
- Benson, Bottineau, Cavalier, McHenry, Pembina, Pierce, Ramsey, Renville, Rolette, Towner and Walsh.

NDSBA strongly encourages school board members who live in

any of the listed counties to apply for the appointments. To do so, you must complete the following online application here by 5 p.m. CT on Monday, April 1, 2024: <https://apps.nd.gov/gov/boards/>.

This board plays a crucial oversight role for North Dakota's K12 Education system. State law requires at least two of the board's six members be school board members but does not place a cap on the number. Ensuring the voices of locally elected school board members are represented on the board at appropriate levels is critical.

Save the Date: 2024 Innovative Education Summit

Gov. Doug Burgum has announced that the eighth annual Governor's Summit on Innovative Education will take place on June 17, 2024 at Bismarck State College in Bismarck, ND. More information and registration will be available soon at <https://www.governor.nd.gov/events/governors-summit-innovative-education-0>.

The event provides opportunities to discover creative solutions, network with experts from the field, and light a spark for future transformation. School board members are highly encouraged to attend the Summit

to learn more about the future of education in North Dakota.

InnovativeND Awards

The #InnovativeND Awards recognize students, educators, schools and districts who lead by example and have embraced innovation for the benefit of our schools and students. Nominations for the 2024 #InnovativeND Awards will open soon and award recipients will be announced and recognized during the 2024 Summit on Innovative Education.



Elections Tips: Absentee Voting Applications

Absentee voting provides a convenient option for people who cannot make it to a polling location on Election Day. If your school board's election is included on the county ballot, voters can request an application for a June 11 Primary Election ballot now by going to the Voting by Absentee or Mail Ballot page on vote.nd.gov or by contacting their county auditor.

If your school board election is not included on the June 11 Primary Election ballot and you want to offer absentee voting, you can use the Absentee/Mail Ballot Application that is under "Forms" on the Voting by Absentee or Mail Ballot page on vote.nd.gov. If you use this form, make sure to let voters know how to return the application for a ballot to your school business manager.

Election officials and the North Dakota Secretary of State are your trusted source for election information. If you have questions about absentee voting or other elections-related topics, visit vote.nd.gov, email soselect@nd.gov, or call 701-328-4146.

NORTH DAKOTA
SECRETARY OF STATE



Legal Spotlight

Protecting the Identities and Records of Applicants During the Hiring Process

by Lexie Bergstrom, NDSBA Staff Attorney

North Dakota school districts, as public entities, must comply with North Dakota's open records laws, including while conducting the hiring process for new employees. Like other public employers, school districts must balance their obligation to remain compliant with the desire to recruit the best possible candidates to fill open positions. NDCC section 44-04-18.27 provides some direction in this regard. Specifically, this section provides a public entity who receives applications from 3 or more qualified candidates for a vacant position the discretion to keep the identities of the candidates and all associated records closed from public view at least for a period of time. In accordance with section 44-04-18.27, the identities of candidates and associated records are "exempt" meaning all or part of a record that is neither required by law to be open to

the public, nor is confidential, but may be open at the discretion of the public entity. Any exempt record or portion of an exempt record the public entity in its discretion has not opened to the public is deemed "closed". Previously, the identities of the candidates and all associated records were required to be kept confidential during the initial stages of the hiring process; however, the ND legislature recently amended the section to designate them as "exempt." While this section has been in place for a number of years at this point, it is often overlooked or misunderstood by school employers. It is important to understand the practical implications of the requirements of section 44-04-18.27, so a refresher seems appropriate.

Section 44-04-18.27 applies to any vacant position for which the public entity receives applications from *at least three or more qualified candidates*. Therefore, it not only applies to a superintendent and other contract positions, but also to classified positions, such as a cook or custodian. As long as the district receives applications from three or more qualified candidates, the requirements set forth in the section apply. If the district receives applications from two or fewer qualified candidates, then the section does not apply and the identities of candidates and related information is open from the outset. Whether a candidate is qualified will depend on the position and circumstances. If a candidate is not qualified for the position, then the individual is not counted for purposes of compliance with section 44-04-18.27.

If a district receives applications from three or more qualified candidates for an open position, section 44-04-18.27 allows the district to keep the identity of the candidates and associated records closed from the public until the district designates three or more finalists for the position. Furthermore, the statute requires the district to designate and further consider finalists before the district may issue an offer to fill the position. With respect to certified/contract employees, it is recommended

that the board take formal action at a public meeting to designate candidates. As for classified staff, it is typical for a board to delegate hiring authority to the superintendent. It is recommended that the superintendent document in writing the designation of finalists for purposes of compliance with section 44-04-18.27 before further considering the finalists for the position. Once finalists are designated, the district is required to further consider the finalists before issuing an offer to fill the position. The statute does not specifically define what "further consideration" means; however, it could mean interviews, further discussion, further gathering of information, or simply additional review of the finalists' application materials. If the district does not wish to consider any of the applications further or make an offer of employment for the vacant position, the district is not required to designate finalists and may end the process at that point.

Because section 44-04-18.27 allows a district to keep the identities of candidates and related records closed during the initial stages of the hiring process, if the board wishes to discuss the candidates and their qualifications during a board meeting, they have the ability to go into executive session for this purpose. Again, once finalists are designated, the process becomes open with respect to the designated finalists and there would be no basis to go into executive session unless otherwise provided by law. However, the identities of applicants not designated as finalists, as well as all related application materials, remain exempt as long as the district is in possession of the information.

The school district business manager is the holder of all district records and should ensure that measures are put in place to avoid the unauthorized disclosure of closed and confidential information. Districts may adopt policies regarding the release of exempt records in accordance with section 44-04-18.27. Please feel free to contact NDSBA for further guidance on compliance with section 44-04-18.27.

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.

EDITOR

Taylor Lassiter

PUBLISHER

North Dakota School Boards Association
1224 West Owens Avenue
Bismarck, ND 58501

TELEPHONE 1-800-932-8791

LOCAL (701)255-4127

FAX (701)258-7992

WEBSITE www.ndsba.org

TWITTER @ndschoollboards

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NDSBMCP Spring Courses: Online and In-Person

Registration for the online spring courses of *Audit Preparations and Internal Controls and Records Management and Retention* is open. Both classes are online only. *Audit Preparation and Retention* will be held from March 4 to May 31 and *Records Management and Retention* will be held in April.

Registration for the in-person spring courses of *Bidding, Purchasing, and Inventory and Human Resources II* is also open. The courses will take place on Friday, March 22 at the Bismarck Career Academy. A room block has been reserved for March 21 at the Home2Suites under NDSBMCP. Interested business managers can learn more about these courses by going to the NDSBMCP website at www.ndsbmcp.org or by calling the NDSBA office at 1-800-932-8791.

Business Manager Certification Program Accepting Applications

The North Dakota School Business Manager Certification Program is now accepting applications for new students to enter the program on a rolling basis. The application form can be accessed online at <http://ndsbmcp.org/index.php/handbooks-and-forms/>. Prospective students can find out more information on the program and application process at <https://www.ndsbmcp.org/> or contact patty.verdouw@ndsba.org for more information.

PRIMARY RESIDENCE PROPERTY TAX CREDIT

NORTH DAKOTA HOMEOWNERS MAY RECEIVE UP TO A \$500 TAX CREDIT!

- CREDIT REFLECTED ON NEXT YEAR'S PROPERTY TAX STATEMENT
- NO AGE OR INCOME RESTRICTIONS
- PROPERTY MUST BE RESIDENT'S PRIMARY HOME

ONLY ONE CREDIT AVAILABLE PER HOUSEHOLD

APPLY JANUARY 1, 2024 - MARCH 31, 2024 AT
TAX.ND.GOV/PRC



LEARN MORE AT TAX.ND.GOV



Register Now for the Upcoming Brunch & Learns!

Have you registered for the upcoming Brunch and Learns, yet? Don't miss your chance to be a part of the discussions in the next three installments of the FREE monthly webinars. Grab your breakfast and tune in at 9 a.m. CT every third Wednesday of the month to learn about issues important to school boards. Information and registration about future webinars can be found at www.ndsba.org/resources/brunchlearn.

March 20 at 9 a.m. CT: Safety and Security in Rural Schools

School safety and security must be a proactive and continuous discussion. Alexander Superintendent Leslie Bieber will be logging on with us to speak on best practices and ideas for school safety and security in rural settings.

April 17 at 9 a.m. CT: Safety and Cybersecurity and Cyber Integration; Where We Are and Where We Are Going

Tyler Ward from the North Dakota Information Technology Office will be with us to discuss computer science and cybersecurity protocols in schools, developing a cybersecurity plan for your district, and how plans may evolve in the future.

May 15 at 9 a.m. CT: Teacher Recruiting and Retention Strategies in North Dakota

Strategies for recruiting teachers from North Dakota university systems need to be practical and meaningful to create interconnectedness. Monte Gaukler from UND and Grand Forks school board member will join us to discuss preparing students for today's teaching profession and the several paths available to becoming an educator in North Dakota."

 **mark your calendar**

2024 NSBA Annual Conference

April 6-8, 2024
Ernest N. Morial Convention Center,
New Orleans, LA

2024 HR Collaborative Conference

April 17-18, 2024
Bismarck Hotel and Conference
Center, Bismarck

2024 IgniteND

June 4-6, 2024
Bismarck State College, Bismarck

**2024 Governor's Summit on
Innovative Education**

June 17, 2024
Bismarck State College, Bismarck

2024 NDSBA Annual Convention

October 24-25, 2024
Bismarck Event Center, Bismarck

2025 NDSBA Negotiations Seminar

February 6-7, 2025
Bismarck Event Center, Bismarck

2025 NDSBA Annual Convention

October 9-10, 2025
Bismarck Event Center, Bismarck

 **superintendent
vacancies**

Fessenden-Bowdon Public School

Nancy Bollingberg, DLS
701-341-0685
nancy.bollingberg@gmail.com
Deadline: March 28, 2024
Position Begins: July 1, 2024

Divide County School District

Stephanie Reistad
701-339-0630
stephaniereistad@hotmail.com
Deadline: Open until filled
Position Begins: July 1, 2024

Bottineau School District

Deborah Nelson
701-228-2266
Deborah.nelson@k12.nd.us
Deadline: March 22, 2024
Position Begins: July 1, 2024

Wing School District

Rebecca Bernhardt
701-943-2319
Rebecca.bernhardt@k12.nd.us
Deadline: Open until filled
Position Begins: July 1, 2024