



bulletin



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

AUGUST 2021

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

NDSBA Announces Friday Convention Keynote

The 2021 NDSBA Annual Convention will be held on October 28-29, 2021, at the Ramkota Hotel in Bismarck, ND. NDSBA is excited to announce our Friday keynote speaker: Jim Mahoney.

A long-time educator and entrepreneur, Jim Mahoney has dedicated his life to bettering educational opportunities for all students, serving as a county superintendent, superintendent, principal, and teacher, as well as an adjunct professor at several Ohio universities. In 2001, he joined Battelle for Kids as the organization's first executive director.

Under Jim's 15 years of leadership, Battelle for Kids grew into a national not-for-profit organization that partners with school districts, state departments of education, business, and philanthropic organizations across the globe to advance educational equity and opportunity for all students. This work has impacted more than 6



Jim Mahoney

million students and more than 400,000 educators nationwide.

Jim has made presentations throughout the U.S., Canada, and China on a variety of topics; co-authored the book, *Data-Driven Decisions and School Leadership: Best*

Practices for School Improvement; and has had articles printed in several state and national publications.

He also has been recognized on numerous occasions for his leadership in education, including being inducted into The Ohio State University's College of Education and Human Ecology Hall of Fame, receiving the Ohio University Voinovich School Leadership in Public Innovation Award; Ohio Friend of Education Award from the Ohio Federation of Teachers; the President's Award from the Ohio School Boards Association, an award given annually to an individual who has greatly influenced public education; the Ohio Superintendent Outstanding Performance Award from the Martha Holden Jennings Foundation; and the Educator of the Year Award from the Ohio Association of Local School Superintendents.

2021 NDSBA Convention Registration

Registration for the 2021 NDSBA Annual Convention will **open ONLINE ONLY on Wednesday, 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 directions 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 WEDNESDAY, OCTOBER 13 in order for delegates to be able to vote at the Delegate Assembly. This is also the deadline for naming alternates.
- Early bird registration fees will be available until October 13. The fees will increase on October 14.
- 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.

NOTICE: NDSBA Mailing Address Change

NDSBA will no longer be using *PO Box 7128, Bismarck, ND 58507-7128*.

Please use the address **1224 West Owens Avenue, Bismarck, ND 58501** for any mail sent to NDSBA. Thank you!



Legal Spotlight

Legal Update on Student Free Speech and Transgender Student Rights

by Amy De Kok, NDSBA Legal Counsel

During the 2020-2021 term, the U.S. Supreme Court issued a long-awaited decision in the *B.L. v. Mahanoy Area School District*, addressing the extent to which school districts may regulate student off-campus speech or expression, including online speech. In another important development, the Court declined to review the 4th Circuit's decision in *Grimm v. Gloucester County School Board*, which related to the use of restrooms based on gender identity. These two developments will likely have an important impact on school district operations in the areas of student speech and transgender student rights.

B.L. v. Mahanoy

In *Mahanoy*, an upset student who failed to make the varsity cheerleading team posted a photo on Snapchat containing obscenities and criticisms of the coach's decision. The student shared the post with 250 of her friends, many of whom were students and

members of the cheerleading squad at the school. The cheerleading coaches subsequently removed the student from the team for violation of team rules, which explicitly stated that participants should have respect for the school, coaches, teachers, other teams, etc., and that good sportsmanship will be enforced, including foul language and inappropriate gestures. Following the dismissal, the student and her family sued the school in federal court. The lower court determined that the school violated the student's First Amendment rights by disciplining the student for the post. The school appealed the decision to the U.S. Court of Appeals of the Third Circuit, which upheld the lower court's ruling.

The district appealed to the U.S. Supreme Court. Although the Court did not agree with the Third Circuit's reasoning, it affirmed the judgement. The Court held that while public schools have less authority to regulate students' off-campus speech than they have to regulate on-campus speech, they retain significant interests in addressing off-campus student speech in certain circumstances. The 8-1 majority opinion written by Justice Breyer referenced the types of off-campus behavior that schools may be able to address: "serious or severe bullying or harassment targeting particular individuals; threats aimed at teachers or other students; the failure to follow rules concerning lessons, the writing of papers, the use of computers, or participation in other online school activities; and breaches of school security devices, including material maintained within school computers."

Under the facts of this case, however, in which the school showed little disruption to the school environment, the Court concluded school officials had overstepped their authority by punishing the student. Breyer concluded, "B.L. uttered the kind of pure speech to which, were she an adult, the First Amendment would provide strong protection." The post "did not amount to

fighting words," nor was it "obscene as this Court has understood that term." "It might be tempting to dismiss B.L.'s words as unworthy of the robust First Amendment protections discussed herein," he wrote, "[b]ut sometimes it is necessary to protect the superfluous in order to preserve the necessary."

Declining to adopt a bright-line rule that schools cannot regulate student speech that takes place off-campus, the Court emphasized three features that diminish public schools' authority to regulate off-campus speech. First, public schools have a lesser interest in regulating student speech when the school does not stand *in loco parentis*, or in the place of parents. The Court noted that such speech is typically within the purview of parental, rather than school-related, supervision. Second, when paired with on-campus regulations, off-campus regulations of speech could potentially be all-encompassing and prevent students from "engag[ing] in that kind of speech at all," consequently requiring schools to meet a heavier burden to justify regulation. Finally, the Court noted that public schools are "nurseries of democracy" and that unpopular opinions voiced off-campus should be protected in order to foster the marketplace of ideas upon which democracy depends.

Grimm v. Gloucester

Grimm involves a transgender male high school student who sued his public school, challenging a school policy prohibiting boys and girls "with gender identity issues" from using the same common restrooms as other boys and girls. The policy directed such students to an "alternative appropriate private facility." The student claimed his school board discriminated against him in violation of the Equal Protection Clause of the Fourteenth Amendment and Title IX, a federal law prohibiting sex discrimination in schools. After four years of litigation—including a trip to the U.S. Supreme Court and back—

Continued on page 3

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

Alexis Baxley

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 @ndsba

EXECUTIVE DIRECTOR

Alexis Baxley, Bismarck

OFFICERS

PRESIDENT

Karl Lembke, Bismarck

VICE PRESIDENT

Patti Stedman, West Fargo

PAST PRESIDENT

Holly Stromsodt, Finley-Sharon

DIRECTORS

Lucas Greff, Mott-Regent
Steve Halldorson, Devils Lake
Jim Rostad, Minot
Robert Toso, Jamestown

Legal Spotlight

Continued from page 2
the U.S. District Court for the Eastern District of Virginia ruled in favor of the student on all claims. The U.S. Court of Appeals of the Fourth Circuit affirmed the ruling in August 2020. The school board sought review of the appeals court decision by the U.S. Supreme Court. This past June, the Supreme Court declined to hear the case without comment.

While the Court did not speak directly on the issues, the denial of review is telling. Denying the review means the student's victory in the appeals court remains intact, which upheld the transgender male student's right to use the boy's bathroom. The ruling also comes a year after the Supreme Court ruled that federal civil rights law bars employers from discriminating against people based on gender identity.

Contact NDSBA for further information regarding the potential impact of the above-referenced cases on public schools.



NDSBA Now Accepting Barb Norby Scholarship Nominations

Each year NDSBA awards the Barb Norby Scholarship to one North Dakota school board member who has demonstrated exceptional board service and commitment to their district. Scholarship recipients receive registration and an expense allowance to attend the following year's National School Boards Association Annual Conference. The 2022 NSBA Annual Conference will be held April 2-4 in San Diego, CA. This event is an outstanding professional

Ensure Your Playgrounds are Safe for Children

Submitted by NDRPA to NDSBA

The North Dakota Recreation & Park Association (NDRPA) is holding its 19th annual Certified Playground Safety Inspector (CPSI) Course October 12-14, 2021, in Bismarck.

Participants can learn about the latest developments in playground safety through classroom instruction and hands-on site investigation during this two-day course. Individuals interested in becoming a certified playground safety inspector may take the optional exam on the third day.

Limited scholarships are available to NDIRF and NDRPA members who

register for both the course and the exam. The scholarship (\$410 value) will cover the cost of course registration. Members who receive a scholarship only pay \$115 for the exam fee. The scholarship is limited to three people per agency and distributed on a first-come, first-served basis.

The final registration deadline for the course is Friday, September 10. The course schedule and registration details are available at www.ndrpa.com. For information, contact NDRPA at 701-355-4458 or sschutt@clearwatercommunications.net.

NDSBMCP New Student Training Begins

Fourteen business managers, assistant business managers, and payroll specialists met from across the state to attend the North Dakota School Business Manager Certification Program new student training hosted by the North Dakota School Boards Association on August 16 and 17 in Bismarck. Attendees learned about business manager roles and responsibilities,

school finance and operations; and state and federal reporting systems. Students ranged from being on the job less than a month to being at the district for more than ten years.



NDSBMCP students: front row, left to right, Lisa Craddock, Lake Region Special Education; Stephanie Hunter, Dickinson; Gayle Beyer, Elgin-New Leipzig; Sadie Satrom, Mapleton; Lenell Jepsen, Bowbells; and Shannon Louder, Maddock. Back row left to right, Jennifer Wade, Grenora; Arlene Ferrell, Marmarth; Rhonda Zastoupil, Killdeer; Nikki Kenyon, Lisbon; Dave Skogen, New Rockford-Sheyenne; Heather Sahli, McKenzie County; Tyra DeCoteau, New Town; and Esmeralda Garza, New Town. Not pictured: Christine Lawson, Glen Ullin.

development and networking opportunity for new and veteran board members alike.

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 Monday, September 20.

The Barb Norby Scholarship Award was created by the NDSBA Board of Directors in tribute to Barb Norby's valuable service to the association.



NDSBA Service Award Program

NDSBA recognizes board members for their professional development, service, and participation. Awards are made in two categories based on a point system: Veteran Board Members (100 points) and Master Board Members (200 points). Members who have participated in National School Boards Association events receive their award "with distinction." Awards are presented at NDSBA's Annual Convention.

Business managers should maintain points forms for board members and update them each year. Business managers should 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. If you have a board member who participates in something that is not listed or you have other questions about point categories, please call the NDSBA office.

A copy of the qualifying board member's form must be received in the NDSBA office by **Monday, September 20.**



PRE-SORTED
STANDARD
U.S. POSTAGE
PAID
PERMIT NO. 6
NEW SALEM, ND
58563

RETURN SERVICE REQUESTED



ND Rural School Summit

October 27, 2021
State Capitol, Bismarck

2021 NDSBA Annual Convention

October 28-29, 2021
Ramkota Hotel, Bismarck

2022 Negotiations Seminar

February 3-4, 2022
BSC National Energy Center of
Excellence, Bismarck

**2022 NSBA Annual Conference &
Exposition**

April 2-4, 2022
San Diego, CA

**Human Resource Collaborative
Conference**

April 20-21, 2022
Ramkota Hotel, Bismarck

2022 NDSBA Annual Convention

October 27-28, 2022
Ramkota Hotel, Bismarck



**Convention
Reminders**

Convention Rooms

If you have sleeping rooms reserved at the Ramkota Hotel for the 2021 NDSBA Annual Convention, you must give them a specific name for each reserved room **by October 4** or the rooms will be released. Contact Ramkota 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.