



# bulletin



**NDSBA**  
NORTH DAKOTA SCHOOL  
BOARDS ASSOCIATION

JANUARY 2020

*Excellence in North Dakota public education through local school board governance* ■ VOL XLV ISSUE 1

## Registration Open for 2020 Negotiations Seminar

Registration is open for NDSBA's 2020 Negotiations Seminar, which will be held at the National Energy Center of Excellence on the Bismarck State College Campus on Friday, February 7. Three early-bird sessions and a threat assessment training will be held on Thursday, February 6. A conference brochure and registration materials are available at [www.ndsba.org](http://www.ndsba.org). **Don't miss your chance to attend this educational seminar; register today!** The agenda is below:

### Thursday, February 6

9:30 – 11 a.m.: FERPA Training for School Leadership

11:15 a.m. – Noon: Intro to BoardBook Premier

1:30 – 4:30 p.m.: Teacher Nonrenewal

1:30 – 4:30 p.m.: Threat Assessment Training

### Friday, February 7

7:30 a.m. – Registration & Continental Breakfast

8:00 a.m. – Negotiations Basics + Preparation & Strategy - *These sessions are*

*primers geared for first-time negotiators or those looking for a refresher. Registration for this session is included in the full Negotiations Seminar fee.*

10:00 a.m. – Negotiations Seminar

- The Days-to-Hours Transition and Your Negotiated Agreement
- Legislative Funding Study Q&A with Legislators
- Experienced Negotiator Panel: Negotiation Scenarios
- What We Learned: Individually Declaring Impasse
- Legal & Practical Pointers for Employee Benefits
- ND Education Fact Finding Commission



- Interactive Q&A

4:30 p.m. – Adjourn

Registration costs will increase on January 28. We have reserved room blocks at the Hampton Inn & Suites (701-751-5656) and the Home2 Suites (701-751-3400). **Be sure to request rooms in the NDSBA block.** Call to make your reservations now!

## Schools Encouraged to Apply for Literacy Grants

State Superintendent Kirsten Baesler has encouraged North Dakota school districts and early childhood care providers to apply for grant funds that will help strengthen the reading, writing, and speaking skills of the state's young people.

A legislative committee recently gave the Department of Public Instruction permission to begin distributing funds

from the \$43.9 million U.S. Department of Education grant.

School districts and early childhood care providers may apply for a share of the money, which will be distributed over five years. Training sessions on how to fill out grant applications began on January 14. **The application deadline is March 1.**

The grants will be focused on benefit-

ing children living in low-income homes, those with disabilities, children who are homeless or in foster care, and those who are learning English as a second language. More detailed information about the Comprehensive Literacy State Development grant, including information about applying, can be found at <https://www.nd.gov/dpi/nd-comprehensive-literacy-state-development-clsd>.

## Superintendent Evaluation Deadline March 15

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 requires that the superintendent be evaluated using a satisfactory or unsatisfactory rating.

JANUARY 2020



# Legal Spotlight

## A Refresher on the Recognition Process

by Amy De Kok, NDSBA Legal Counsel

It is that time of year again— negotiations

season. There are likely several districts that will be starting the process in the very near future. Before the board gets too far into planning for the actual negotiation meetings with their teachers, it is important to review and understand the required steps and deadlines that must be completed before negotiations may begin.

In order to negotiate, either the board or the teachers must provide notice to the other of their desire to negotiate at least sixty (60) days before the contract anniversary date (typically July 1). There are some districts whose negotiated agreement provides for a different (often earlier) deadline to provide such notice. Thus, you should always be aware of this initial deadline well in advance and plan accordingly. If notice is not provided by the deadline, the other party is not required to negotiate. If the board

initiates negotiations, the board should issue notice to the teachers and request that petitions describing an appropriate negotiating unit and seeking recognition of a representative organization should be filed with the business manager by a specific date. Regardless of who initiates the negotiations process (board or teachers), there are certain steps required by law. During these steps, the board recognizes the group of employees with which it will negotiate and recognizes the organization representing this group. These steps are referred to as the “recognition process.” In practice, the teachers typically file one petition with both requests. While there is nothing improper about this, it is important that the board still handle each step in the appropriate order.

Once the board receives the petition for recognition of an appropriate negotiating unit, it should, at an open meeting, review the unit description and, if acceptable, approve the negotiating unit. Recently, I have received inquiries from our member districts as to which employees are “teachers” for purposes of negotiations. Typically, the petition submitted by the teachers should define the negotiating unit as “all employees licensed to teach by the Education Standards and Practices Board or approved to teach by the Education Standards and Practices Board and employed by the school board primarily as classroom teachers.” This is the definition of “teacher” set forth in NDCC chapter 15.1-16 (Teacher Representation and Negotiation). It is important to appropriately define the negotiating unit so that it is clear who the board is negotiating with and who will be subject to the terms of the negotiated agreement eventually reached between the parties.

At first blush, it may seem clear as to who is and who is not a teacher. This is not always the case. The primary example of this relates to the school counselor. Most would not consider a school counselor as someone “primarily employed as a classroom teacher.”

However, as confirmed by the North Dakota Supreme Court in *Hilton v. North Dakota Education Association* (N.D. 2002), counselors who are certificated under NDCC chapter 15-36 (the predecessor to NDCC chapter 15.1-13) and who do not devote more than fifty percent of their time to administration duties are teachers for purposes of the teachers’ representation and negotiation law. As to other employees, the issue is clearer. Neither classified staff members nor administrators should be part of the negotiating unit comprised of teachers. Administrators may form their own negotiating unit and request to be recognized by the board; however, it should be a separate process from the teachers.

Once the board has recognized the appropriate negotiating unit, the unit must choose a representative organization to negotiate on its behalf and file a petition with the school board asserting that the organization represents a majority of the teachers within the unit. Again, this request is often times combined with the initial request to recognize the negotiating unit. Teachers must sign up to be represented by the organization. The petition filed with the board must be accompanied by evidence (i.e., a list of signatures) substantiating that the organization represents a majority of teachers within the negotiating unit. In this instance, a majority means 50 percent of the negotiating unit plus 1.

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## BoardBook Premier

BoardBook Premier is now 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](http://www.ndsba.org) for more information.



## 2020 School Board Election Deadlines Example

Annual school board elections must be held between **April 1 and June 30** (NDCC 15.1-09-22). **NDSBA is using June 9, 2020, as an EXAMPLE election date. If you have a different election schedule in accordance with state law cited below.** If your school board election is held in conjunction with a county election, the county election board should administer the election in the county or state election. (NDCC 15.1-09-13(4))

MARCH						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

APRIL						
S	M	T	W	T	F	S
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5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

MAY						
S	M	T	W	T	F	S
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3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

JUNE						
S	M	T	W	T	F	S
	1	2	3	4		
7	8	9	10	11		
14	15	16	17	18		
21	22	23	24	25		
28	29	30				

**March 7, 2020 - 94 days before the election**

**30 days before** the deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city or county. (NDCC 15.1-09-09)

**April 6, 2020 - 64 days before the election**

An individual seeking election to the board of a school district shall prepare and sign a document (Statement of Intent) stating the individual's name and the position for which that individual is a candidate. A Statement of Intent is required by section 16.1-09-02. These documents must be filed with the school district business manager or mailed to and in the possession of the business manager by 4:00 p.m. on the election. (NDCC 15.1-09-08)

Each board of a school district that enters into an agreement with the county (to share election expenses) must notify the county auditor in writing **at least 64 days before** the election of the offices to be filled at the election to appear on the ballot. (NDCC 15.1-09-24) NOTE: This deadline only applies to school districts holding the annual election in conjunction with a primary election and sharing election expenses with a county.

**April 30, 2020 - 40 days before the election**

**At least 40 days before** the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to appear on the ballot. (NDCC 15.1-09-08)

**May 5, 2020 - 35 days before the election**

**At least 35 days prior** to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as evenly as possible. (NDCC 15.1-09-13(1))

**At least 35 days prior** to the annual election, the board of each school district shall designate one or more polling places for each precinct. The board shall locate the polling places as conveniently as possible for the electors of the district. (NDCC 15.1-09-13(2))

**May 26, 2020 - 14 days before the election**

**At least fourteen days before** the date of an annual or special school district election, the school board shall publish a notice in the official newspaper of the district stating the time and place of the election and the purpose of the election. (NDCC 15.1-09-09)

**June 9, 2020 - Election day**

School Board Election

**June 15, 2020 - 6 days after the election**

**On the sixth day after the election**, the school board shall meet to canvass all election returns and shall declare the result of an election. (NDCC 15.1-09-15)

**June 18, 2020 - 3 days after canvassing**

**Within three days after the canvass** by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and the individual's affirmation or oath of office. (NDCC 15.1-09-17)

**June 15-25, 2020 - 10 days after canvassing**

**TEACHER AND ADMINISTRATOR EVALUATION, CONTRACT, AND NONRENEWAL DEADLINES**

**SUPERINTENDENT EVALUATION, CONTRACT, AND NONRENEWAL DEADLINES**

**Note:** Administrator is defined as principal, assistant superintendent, and associate superintendent. It excludes the superintendent. See reverse side for superintendent evaluations, contract, and nonrenewal deadlines.

EVALUATIONS OF TEACHERS AND ADMINISTRATORS	
First three years individual holds the position:	Two evaluations must be conducted on or before December 15 and April 15.
Fourth year or more individual holds the position:	One evaluation must be conducted on or before April 15. <b>NDCC 15.1-15-01(2)</b>
TEACHERS AND ADMINISTRATOR CONTRACT ISSUANCE & RENEWAL	
Offering contracts to teachers and administrators currently employed	No earlier than March 1 and no later than May 1. Provide at least 14 calendar days to return contracts. <b>NDCC 15.1-15-04(2)</b>
Offering contracts to newly hired teachers and administrators	No deadline in law. Give new hires a reasonable timeframe to consider offer and return the contract (e.g., 10 days).
Contract issuance during negotiations	Issuance suspended until negotiations are complete. <b>NDCC 15.1-15-04(4)</b>
NONRENEWAL DEADLINES FOR TEACHERS AND ADMINISTRATORS	
Notice of contemplated nonrenewal	Must be in writing and no earlier than March 1 and no later than April 15. <b>NDCC 15.1-15-05(1)</b>
Nonrenewal hearing deadline	No later than April 21. <b>NDCC 15.1-15-05(1)(b)</b>
Notice of nonrenewal decision	In writing and no later than May 1. <b>NDCC 15.1-15-06(10)</b>
EXCEPTIONS TO NONRENEWAL DEADLINES FOR PROBATIONARY TEACHERS AND ADMINISTRATORS IN POSITIONS FOR LESS THAN TWO YEARS	
Probationary teacher (an individual teaching in your district for less than two years) <b>** Changed during 2019 legislative session **</b>	After April evaluation is complete, the board meets with the teacher in executive session to discuss reasons for contemplated nonrenewal. Notice of Nonrenewal must be provided no earlier than April 15 and no later than May 1. <b>NDCC 15.1-15-02(4)</b>

SUPERINTENDENT EVALUATIONS	
NDCC 15.1-14-03(1) requires that each school board conduct two evaluations:	
	<ul style="list-style-type: none"> <li>On or before November 15</li> <li>On or before March 15</li> </ul>
SUPERINTENDENT CONTRACT ISSUANCE & RENEWAL	
Contract duration	No more than three years. <b>NDCC 15.1-09-33(25)</b>
Renewal deadline	Automatically renews for one year unless board provides notice of contemplated nonrenewal on or before April 15 or superintendent provides written resignation on or before June 1. <b>NDCC 15.1-14-11</b>
Offering contract to newly hired superintendent	No deadline in law. Ensure contract of former superintendent has been terminated before issuance. Give new hire a reasonable timeframe to consider offer and return a contract (e.g., 10 days).
NONRENEWAL DEADLINES FOR SUPERINTENDENT WITH A DISTRICT LESS THAN TWO YEARS (count only years employed as superintendent)	
Notice of nonrenewal	Provide written notice of nonrenewal decision before May 1. Board shall meet with superintendent in executive session to convey reason for nonrenewal if requested. <b>NDCC 15.1-14-12(1)</b>
NONRENEWAL DEADLINES FOR SUPERINTENDENT WITH A DISTRICT TWO OR MORE YEARS	
Notice of contemplated nonrenewal	In writing and on or before April 15. <b>NDCC 15.1-14-09(1)</b>
Nonrenewal hearing deadline	On or before April 21. <b>NDCC 15.1-14-09(1)(b)</b>
Notice of nonrenewal decision	In writing and no later than May 1. <b>NDCC 15.1-14-10(8)</b>



## ■ Legal Spotlight

*Continued from page 2*

If the representative organization does not represent a majority of teachers, it cannot be recognized.

In most instances, the representative organization requesting to be recognized will be the local teachers' association, although this is not required. Any organization that represents a majority of the individuals in the negotiating unit can petition to be recognized. Indeed, North Dakota law contemplates a situation where there may be multiple groups that want to be recognized. NDCC 15.1-16-11(2) provides: "[i]f any organization has an interest in representing a group of teachers or a group of administrators and wishes to contest the claim of representation made in the petition under subsection 1, the contesting organization must file with the board of the school district a petition containing a written statement of contest together with substantiating evidence, within ten days from the date on which the board posted the notice of intent to consider the original petition."

Within ten (10) days of receipt of the petition for recognition by the representative organization, the board is required to post notice of its intent to consider the petition in each school within the district wherein members of the negotiating unit are employed. Once the notice of intent is posted, the board must act on the petition no sooner than ten (10) days and no later than twenty (20) days from the date of posting. Unless the board finds in good faith that there is a reasonable doubt that representation exists and if the petition is not contested, the board must recognize the petitioner as the representative organization. Once the representative organization is recognized, the board must post notice of its determination in each school wherein members of the negotiating unit are

employed. At that point, the recognition process is complete and negotiations must begin within thirty (30) days, unless both sides agree otherwise.

It bears repeating – it is very important that the above-referenced steps are followed and all deadlines met. If not, it is possible that negotiations would not move forward or it could open up the possibility of a claim that the representative organization is not authorized to negotiate on behalf of the negotiating unit or that the negotiated agreement is invalid. It is also important to strictly adhere to the meeting notice requirements set forth in NDCC chapter 44-04. NDSBA has prepared a Negotiations Basics Handbook that provides valuable information to assist school boards through the negotiation process. Please contact us if you are interested in receiving a copy.



## State Mileage Rate Changes

**As of January 1, 2020, state rate for mileage reimbursement is \$0.575 per mile.**

State mileage rates can be found on the North Dakota Office of Management and Budget website at [www.nd.gov/omb/agency/financial/fiscal-policies](http://www.nd.gov/omb/agency/financial/fiscal-policies) under Fiscal and Administrative Policy Updates Updated 1/1/2020.

Mileage rate updates can also be found on NDSBA's webpage under QuickClicks: Mileage Reimbursement Rate (link to [www.gsa.gov](http://www.gsa.gov) website).



## NDSBMP To Host Upcoming Training

The North Dakota School Business Manager Certification Program (NDSBMCP) will host a one-day training for business manager students in Bismarck on Wednesday, February 5, at the Holiday Inn (3903 State Street) from 10:00 a.m. - 4:00 p.m. Amy De Kok, NDSBA Legal Counsel, will kick off the day's training with School Law for Business Managers. De Kok will provide a "how to" on using North Dakota Century Code, North Dakota Administrative Code, and legal resources on the U.S. Department of Education website. She will also cover state and federal laws that influence services and programs required to be offered by public school districts, basic contract law, and an overview of other state laws that impact school district operations. During the afternoon, Dr. Paul Stremick will teach Budget, Budget Forecasting, and School Accreditation. Stremick will provide an in-depth study of various principles and practices of public school budgeting, an overview of accreditation standards to ensure the budget is aligned accordingly, and guidance on developing an annual budget calendar and holding a budget hearing.

This training is for first-year Business Manager Certification Program students. Graduates of the program are encouraged to sign up for one or both courses for affiliate credit at a discounted rate. Students retaking the course for affiliate credit have the option to view the recorded presentation and course materials online and to receive up to 2.5 affiliate credits for participating.

Contact the NDSBA office at 1-800-932-8791 for more information on the program or for assistance in registering.



## NSBA 2020 Annual Conference Registration and Housing

The NSBA Annual Conference and Exposition will be held April 4-6 in Chicago, Illinois. Join us in Chicago for a robust offering of over 250 educational programs that will give you new ideas and tools to help drive your district forward.

Conference registration and housing reservations are now open. Register online at <https://www.nsba.org/Events/NSBA-2020-Annual-Conference-and-Exposition>.



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#### **Devils Lake School District**

Contact: Kristel Peterson  
Phone: 701-662-7640  
Email: [kristel.peterson@dlschools.org](mailto:kristel.peterson@dlschools.org)  
Application: Contact Kristel for application package.  
Deadline: January 31, 2020  
Position Begins: July 1, 2020

#### **Leeds School District (part-time)**

Contact: Maria Dunlap  
Phone: 701-466-2461  
Email: [maria.m.dunlap@k12.nd.us](mailto:maria.m.dunlap@k12.nd.us)  
Application: Email resume to above, or mail to PO Box 189, Leeds ND 58346  
Deadline: Open until filled  
Position Begins: July 1, 2020

#### **Killdeer School District**

Contact: Alexis Baxley  
Phone: 1-800-932-8791  
Email: [alexis.baxley@ndsba.org](mailto:alexis.baxley@ndsba.org)  
Application: [www.ndsba.org](http://www.ndsba.org)  
Deadline: TBD  
Position Begins: July 1, 2020

#### **Mandaree School District**

Contact: Alexis Baxley  
Phone: 1-800-932-8791  
Email: [alexis.baxley@ndsba.org](mailto:alexis.baxley@ndsba.org)  
Application: [www.ndsba.org](http://www.ndsba.org)  
Deadline: TBD  
Position Begins: July 1, 2020

#### **Carrington School District**

Contact: Kim Edland  
Phone: 701-652-3136  
Email: [kimary.edland@k12.nd.us](mailto:kimary.edland@k12.nd.us)  
Application: Contact above  
Deadline: March 2, 2020  
Position Begins: July 1, 2020



#### **2020 NDSBA Negotiations Seminar**

February 6-7, 2020  
BSC National Energy Center of Excellence, Bismarck

#### **2020 NSBA Annual Conference**

April 4-6, 2020  
Chicago, Illinois

#### **2020 NDSBA Annual Convention**

October 29-30, 2020  
Ramkota Hotel, Bismarck



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Follow us at [@ndsba](https://twitter.com/ndsba) for event, policy, and other education-related updates.



### **Book Rooms for 2021 NDSBA Convention**

NDSBA's 2021 Annual Convention will begin on Thursday, October 28, with the School Law Seminar and New Member Seminar. Regular convention activities will begin that afternoon and conclude on Friday afternoon, October 29.

The Ramkota is now taking sleeping room reservations for the 2021 Annual Convention. Call the Ramkota at 701-258-7700 for room reservations. Secure your room early.