



bulletin



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

MAY 2023

Excellence in North Dakota public education through local school board governance ■ VOL XLVIII ISSUE 5

68th Legislative Session

The 68th Legislative Assembly of the State of North Dakota adjourned sine die at about 4 a.m. the morning of Sunday, April 30. For at least the third session in a row, the Office of Management and Budget's appropriation bill (SB 2015) was the last bill out. Both education funding bills – SB 2284 and SB 2013 – rounded out the last five. Legislators worked into the wee hours of the morning and were able to save five legislative days in case the need to return during the interim should arise. Considering vetoes issued by the Governor after adjournment or the results of a lawsuit regarding last interim's redistricting efforts could provide reason to reconvene. The newly elected Legislative Management committee will meet on May 25 to select interim studies and assign committees.

This session was certainly one of the most difficult for public education in recent history, but we were grateful to see some success as well. Legislators approved a 4/4 per pupil payment increase, expanded the ability of boards to issue signing bonuses and short term contracts, and expanded local control over professional development. NDSBA members are encouraged to review the final legislative updates emailed May 2 and May 17 and view the May Brunch and Learn recording available at www.ndsba.org for more information on all of these issues.

Now that all bills have been signed



**North Dakota
Legislative Branch**

by Governor Burgum, NDSBA staff has begun working on guidance and policy updates as necessary. We will distribute these items as they are finalized prior to bill effective dates; some will need to wait for administrative rule approval. Policy updates we expect to issue likely include, but may not be limited to:

- ABAC – Virtual Learning
- ABAD – Virtual Schools
- ABBE – Religious Displays
- ABEC – Meal Charge
- BC – Board Meetings
- BCAA – Board Agenda
- BCAB – Meeting Procedures
- DCCA – Signing Bonuses
- DDBD – Military Leave
- DGGA – Professional Development

- FFD – Possessing Weapons
- FFK – Suspension, Expulsion
- FAAA – Open Enrollment
- GBAA – Teaching Religion
- GACG – Learn Everywhere
- HEBD – Audits

Additionally, we recommend rescinding policy FDI – Transgender if your district has previously adopted it. We will not be issuing an updated FDI template. You can also plan to see guidance on topics like campaign finance and PERS and updates to our elections and open records manuals as a result of legislative changes. These updates will be shared via email and the Bulletin.

Finally, NDSBA would like to thank the members of our legislative committee and those of you who took time to send emails to your legislators during the session. Each of you was essential to the successes we achieved, but the work has only just begun. We must begin immediately preparing for the next session by building relationships with our local legislators now. This will be the most important advocacy work we do during the interim.

Register: Board Member Bootcamp

Registration for the 6th annual North Dakota School Board Association and North Dakota Department of Public Instruction co-hosted Board Member Bootcamp is open. The one-day school board member training will take place on Monday, August 7, 2023, at the state Capitol in Bismarck from 9 a.m. to 4 p.m. CT, and lunch will be provided. Registration for the FREE training can be found at <https://www.ndsba.laventurellc.com/2023bootcamp>.

Please note: this training does not meet the new board member training required by law.



NDSBA Requesting Clinic Proposals

NDSBA is still accepting proposals for 2023 NDSBA Annual Convention clinic sessions. The proposal submission form can be found at www.ndsba.org under QUICK CLICKS.

Please consider sharing unique or successful things happening in your district or suggesting a speaker or topic you would like to see.

Submission deadline has been extended to June 7, 2023.



Legal Spotlight Can a School District Employee also be a School Board Member?

by Lexie Bergstrom, NDSBA Staff Attorney

We often receive questions about whether a school district employee can run for an open school board position. At the outset, there is nothing in North Dakota law that prohibits a current district employee from running for a school board position. However, if a district employee runs for a board position and is elected, they may need to choose between that employment and the seat on the board. There are two reasons a district employee may have to make that choice, and this article will discuss both.

First, North Dakota law provides that if an employee seeks to hold an elected position and those two positions are incompatible, the individual cannot hold both positions and must either resign from employment or decline the elected seat. Whether two positions are incompatible depends on the circumstances. The issue of incompatibility was addressed by the North Dakota Supreme Court in Tarpo

v. Bowman in which it was determined that a teaching position and a board seat are incompatible by law. In Tarpo, a teacher who was also a school board member brought an action to prevent his school district from denying him a teaching contract after the board failed to vote to renew his contract. While the initial issue presented by the parties was one of a conflict of interest, the Court held that employment as a teacher and also a school board member is actually an issue of incompatibility. The Court also held that such incompatibility did not necessarily require the teacher to vacate his school board position. Rather, the incompatibility could be removed by allowing the teacher to choose which position he would vacate. The doctrine of incompatibility would also prevent a superintendent, business manager, and principal from holding a seat on the board of their employer district based on the Court's analysis in Tarpo.

The doctrine of incompatibility prevents a person from simultaneously holding two public offices where the functions of the two offices are inherently inconsistent, as where there are conflicting interests or where the nature and duties of the two offices are such as to render it improper from considerations of public policy for one person to retain both. This is something more than a physical impossibility to discharge the duties of both offices at the same time. Two offices or positions are incompatible when one has the power of appointment to the other or the power to remove the other, and if there are many potential conflicts of interest between the two, such as salary negotiations, supervision and control of duties and obligations to the public to exercise independent judgment.

In addition to the doctrine of incompatibility, several school boards have adopted a policy that prohibits the employment of board members district in general except under limited circumstances. Such a policy would

likely force the individual to make a choice or for the board to terminate the board member's employment if the individual accepts the seat. NDSBA has a template policy regarding employee and board member incompatibility. If your district has adopted this policy it will likely provide further guidance if needed.

Please note that the doctrine of incompatibility is not the same as a conflict of interest. Incompatibility involves a conflict of duties between two positions. While this conflict of duties is also a conflict of interest, a conflict of interest can exist when only one position is involved, the conflict being between that position and a non-professional interest. Incompatibility may be sufficient for vacation of an office while conflict of interest is not.

Whether an existing employee may also sit on the school board is going to depend on the particular circumstances and NDSBA encourages districts to consult with legal counsel in these situations. Please contact NDSBA for further information regarding this topic.

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Contact: Alexis Baxley

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Deadline: June 1, 2023

Position Begins: July 1, 2023

North Star School District

Contact: Nancy Resier

Phone: 701-968-4416

Email: Nancy.reiser@k12.nd.us

Website: <https://northstarnsd.sites.thrillshare.com/>

Deadline: Open Until Filled

Position Begins: July 1, 2023

Threshold Change Could Change Your Audit Requirement

The North Dakota State Auditor's Office announced that the financial threshold that triggers an audit for local governments has increased from \$750,000 to \$2,000,000. Local governments listed in N.D.C.C. 54-10-14, regardless of type and including school districts, cities, and other districts that have under \$2,000,000 in annual receipts will no longer be

required to submit an audit to the State Auditor's office. Local governments will instead be required to submit an annual financial report to the State Auditor's office.

This change came from SB 2180 during the 68th Legislative Assembly. The enactment updates state law and is retroactive for any outstanding audits dating back to January 1, 2022. Local

governments that are directly impacted will receive additional correspondence in the coming weeks. The threshold change, however, does not impact audits required by other entities or for other existing reasons.

For questions on the threshold change, please contact the State Auditor's Office at 701-328-2241.

Apply Today for EPA Clean School Bus Grants

The Clean School Bus Program, a program within the United States Environmental Protection Agency (EPA), is offering a grant opportunity that will award a total of approximately \$400 million in competitive grant funding to fund the replacement of existing school buses with clean and zero emission (ZE) buses.

Funding awards are dependent on the bus fuel type, bus class size, number of buses being replaced, and prioritization status. Buses serving school districts that meet one or more prioritization criteria can receive up to \$395,000 (per bus and

ZE infrastructure). The criteria for prioritization has been expanded under this grant program, which may be found on the CSB Grants Webpage at <https://tinyurl.com/csbgrants>

To ensure a healthy grant competition, the program includes two sub-programs, one for school district and Tribal applicants (School District Sub-program) and one for third-party applicants (Third-Party Sub-program) to serve at least four school district beneficiaries. EPA is providing two separate competitions to address the unique needs and concerns of diverse recipients and encourage participation

in the grants program.

For helpful resources, including informational sessions where/how to submit questions, important due dates, required application documents, and more go to the Clean School Bus website at <https://www.epa.gov/cleanschoolbus>.

All application packages need to be submitted electronically to EPA through Grants.gov (search Clean School Bus), no later than Tuesday, August 22, 2023, at 11:59 p.m. ET to be considered for funding.

Nominate Leaders for 2023 #InnovativeND Awards



As the school year begins to wind down we want to continue to spread gratitude for all educators do for the students and families they serve in communities around the state. The #InnovativeND Awards symbolize a recognition of service, leadership, innovation and excellence in education. Reflect on successes from the past year and take a moment to nominate a leader in the profession. Help celebrate

exceptional educators, education leaders and students at the 2023 Summit on Innovative Education by nominating someone at <https://tinyurl.com/InnovativeEdAwards2023>

The awards will be presented at the 7th annual Governor's Summit on Innovative Education on August 15, 2023, at Cheney Middle School in West Fargo. You can register to attend at <https://tinyurl.com/2023govsummit>.

Call for NDSBA Standing Resolutions

Resolutions shape NDSBA's advocacy strategy and are adopted by the Delegate Assembly at NDSBA's Annual Convention. Any member board may submit a resolution for consideration using the format below. Please view current Standing Resolutions before submitting. Resolutions are automatically dropped after four years unless brought to the Delegate Assembly for reconsideration. Both Standing Resolutions and Beliefs and Policies are on the NDSBA website at <https://www.ndsba.org/wp/beliefs-and-policies/>.

To submit a standing resolution proposal, an individual board must follow the format listed on the NDSBA website on the convention page.

Submit proposed resolutions by email to Taylor Lassiter at taylor.lassiter@ndsba.org. **Submissions are due by August 25, 2023.**

RETURN SERVICE REQUESTED



2023 IgniteND Conference

June 7-9, 2023

Bismarck State College, Bismarck

2023 North Dakota Indian Education Summit

July 6-7, 2023

ND Heritage Center, Bismarck

2023 NDDPI & NDSBA Board Member Bootcamp

August 7, 2023

State Capitol, Bismarck

2023 Governor's Summit on Innovative Education

August 15, 2023

Cheney Middle School, West Fargo

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



2023 Convention Program Cover Contest

This year, the North Dakota School Boards Association is hosting a competition amongst all public school districts who wish to submit a picture from their district to be the cover of the 2023 Annual Convention program.

You can submit a photo between now and July 7, 2023. NDSBA staff will choose five of the submissions to be voted on by the districts who wish to participate from July 10 - 21, 2023. The winning submission will be announced on July 24, 2023, acknowledged at the 2023 NDSBA Annual Convention, and awarded a special door prize at convention.

To submit a 2023 Annual Convention program cover, go to <https://forms.gle/QWFS1BFnfHXq496p9>.

Please Note: Submissions must be in .png or .jpg form and must be 8.5 x 11 inches and in vertical orientation. One submission allowed per school district; if a district wishes to change their submission, they must contact taylor.lassiter@ndsba.org.