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Excellence in North Dakota public education through local school board governance ■ VOL XLI ISSUE 12

Negotiations Seminar 2017: Dealing With Tight Budgets

NDSBA's Negotiations Seminar will be held at the Bismarck Ramkota Hotel on Friday, February 10. Two early bird sessions will be held on Thursday, February 9. A brochure with registration information will be sent to schools in the near future. These forms will also be available on the NDSBA website at www.ndsba.org.

EARLY BIRD SESSIONS Superintendent Evaluation

Thursday, February 9
10:00-11:30 a.m.

This session will focus on NDSBA's superintendent evaluation template and recommended procedures for completing the evaluation. A tutorial on the electronic component of the evaluation will be presented by Jeff Fastnacht, Ellendale superintendent, and Dan Martin of Rocky Mountain Evaluations. Participants will learn how to complete the evaluation, edit their answers, save, create and edit questions, search, and collate the information. We encourage registrants to bring their laptops to participate in this tutorial.

Advantages of the electronic evaluation include:

Time savings: Individual board member evaluations are automatically compiled into a final document

Customization: Evaluations can be tailored to reflect the superintendent's job description and responsibilities

Ease of evaluation: Board members' notes on the superintendent's

performance can be captured throughout the year and retrieved to complete the evaluation, thereby providing greater accuracy and detail.

Teacher Nonrenewal
Thursday, February 9
1:00-4:00 p.m.

This session will deal with evaluation of licensed personnel, nonrenewal procedures, performance nonrenewals, first-year teacher nonrenewals, RIF nonrenewals, resignation, and breach of contract.

NEGOTIATIONS SEMINAR
Friday, February 10
8:30 a.m.-3:30 p.m.

Topics include an overview of the negotiations process, negotiations basics, preparation, strategy, the recognition process, negotiated agreements, declaring impasse and the impasse process, and issuing teacher contracts. An update on legislative bills dealing with funding and the negotiations process will also be discussed.

Call the Ramkota Hotel to make your reservations at 701-258-7700. Registration deadline for the lower preregistration fee is Monday, January 30, 2017.



NSBA's Tom Gentzel: Red Flag on ESSA Backsliding

Passage of the Every Student Succeeds Act (ESSA) late last year has been the cause of much celebration by those of us who believed the fulcrum in education policymaking was badly in need of a reset. For decades, the federal role has grown, coercing state leaders and local school officials to change their practices in order to be eligible for funding from Washington.

What is commonly referred to as "federal overreach" had become a new standard, with directives and requirements added at an increasingly alarming rate. Local school officials became accustomed to paying the piper and doing what was expected in order to qualify for the money.

When schools are viewed as just another government program or as little more than outposts of a federal bureaucracy, the sense of local ownership that has been a hallmark of the American education system is weakened if not lost altogether. Compliance trumps innovation every time.

All this brings us back to December 2015 when President Obama signed ESSA into law, ushering in a new era with pronounced restoration of state and local decision-making in how schools are operated.

Continued on page 3

2017 Legislative Session Begins January 3

NDSBA will be posting legislative information on our webpage at www.ndsba.org.

In addition to posting the legislative bills we are tracking, we post a legislative newsletter every Friday afternoon,

along with the hearing schedule for the upcoming week.

Keep in touch with your legislators during the session so they know your position regarding bills that affect your school district and community.

Service Dogs in Schools - High Court To Decide

On Monday, October 31, 2016, the U.S. Supreme Court heard arguments over whether a disabled student who had been prevented from having her service dog in school could sue the school district for damages. The case pits requirements under the Individuals with Disabilities Education Act (IDEA), section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (ADA) against each other.

Ehlana Fry was born with cerebral palsy and has impaired mobility. Wonder, a golden doodle, came into her life when she was five years old and was specially trained to help Ehlana with daily activities such as opening doors, turning lights on and off, taking off a coat, and going to the bathroom by herself--instead of having to do so with an open stall and watchful adults. Her school district did not agree that Wonder should join her at school. The district indicated that it had already agreed to provide Ehlana with an aide, and

therefore, Wonder's presence was not necessary.

The case, which is legally technical, will turn on whether all standard administrative venues must be pursued before a case for damages can be brought at the federal level. During oral arguments, there was concern that if the Court allowed families to sue without going through standard administrative proceedings, many cases that might otherwise have reached a negotiated settlement will end up in the federal court system. On the other hand, Justice Kagan pointed out that Wonder's role was to help with things entirely unrelated to the student's education. She said that this lawsuit would have been permissible if Wonder had been barred from entering a public library. She said that just because the IDEA exists for schools, it does not mean that the ADA and the Rehabilitation Act do not apply to schools.

It is hoped that the Court will take this opportunity to clarify expectations and obligations regarding the presence of service dogs and service animals within a school setting. A decision is not expected until next year.

Transgender Bathroom Issue Reaches High Court

The U.S. Supreme Court said it will decide next year whether the federal government may require school districts to let transgender students use the bathrooms that align with their gender identity. The case known as *Gloucester County School Board v. G.G.* comes about after many months of conflicting court decisions, state legislatures enacting laws requiring people to use public restrooms that match the sex on their birth certificates, and U.S. Department of Education guidance indicating that Title IX (the federal law banning sex discrimination in public schools) protects the rights of transgender students to use school bathrooms that align with their gender identity.

bulletin

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superintendent vacancies

Larimore School District

Contact: Jon Martinson
(701) 255-4127

Email: jon.martinson@ndsba.org

Application: www.ndsba.org

Deadline: February 15, 2017

Position begins: July 1, 2017

Mandaree School District

Contact: Jon Martinson
(701) 255-4127

Email: jon.martinson@ndsba.org

Application: www.ndsba.org

Deadline: February 10, 2017

Position begins based on availability

Book Rooms for 2018 NDSBA Convention

NDSBA's
2018 Annual
Convention
will begin on
Thursday,
October 25,

with the Law Seminar and New Member Seminar. Regular convention activities will begin that afternoon and conclude on Friday afternoon, October 26.

The Ramkota will begin taking room reservations for the 2018 Annual Convention on January 1, 2017. Call the Ramkota at (701)258-7700 for room reservations. Secure your rooms early!



Medical Marijuana Laws and School Bus Drivers

School bus drivers are classified as commercial drivers by the Federal Motor Carrier Safety Administration (FMCSA). As commercial drivers, they are required to have a commercial driver's license and are subject to drug and alcohol testing.

With the advent of medical marijuana use laws in a number of states, including North Dakota, employers and drivers have asked the U.S. Department of Transportation (DOT) about the impact of these laws on commercial drivers. In November 2015, the DOT Office of the Secretary issued the following statement:

"The Department of Transportation's drug and alcohol testing regulation 49 Code of Federal Regulations, Part 40 at 40.151(e) does not authorize 'medical marijuana' under state law to be a valid medical explanation for a transportation employee's positive drug test result."

Update: ND Teacher Recruitment and Retention Task Force

In an April 2016 *Bulletin* article, I mentioned work being done by Superintendent Baesler's Teacher Recruitment and Retention Task Force. At the time, we were discussing: (1) the current loan forgiveness program offered by the State Bank of North Dakota; (2) a marketing campaign to increase interest in the teaching profession; (3) alternative pathways to teacher certification; (4) what other states are doing to recruit and retain teachers; and (5) possible legislation.

Task force members met in November to review our progress and determine

Furthermore, the DOT's guidance to medical review officers, states that positive marijuana drug tests are not allowed to be ruled negative based on information that a physician recommended the drug's use.

The net effect of these DOT statements is that there are no changes to operational requirements for school bus drivers related to drug and alcohol testing, including pre-employment testing, random testing, post-accident testing, and reasonable suspicion testing.

All school bus drivers and driver candidates are subject to FMCSA drug-testing regulations. The tests must be administered by a DOT-certified laboratory under the supervision of a medical review officer.

By Pete Japikse, Senior Transportation Consultant, Ohio School Boards Association

next steps related to the five items mentioned above. Legislation will be introduced to continue the Bank of North Dakota's loan forgiveness program.

Committee members decided that a marketing campaign to promote the teaching profession was too expensive and we would be unable to assess its effectiveness in any meaningful way.

Rebecca Pitkin, executive director of the Education Standards and Practices Board (ESPB), stated that ESPB has allowed more flexibility regarding teacher licenses for those individuals

Continued on page 4

■ Red Flag on ESSA

Continued from page 1

That celebration is proving to be short-lived, however. The very overreach that ESSA was designed to counter now is re-emerging as evidenced by rulemaking that is being promulgated to implement the new law.

NSBA recently sent a detailed letter to the U.S. Department of Education that threw a number of red flags for the agency's proposed ESSA accountability regulations. We noted that even though the Secretary of Education, as a condition of approving state plans, is prohibited from imposing any requirement that is inconsistent with the law, the draft rules do just that in several places.

“ The very overreach that ESSA was designed to counter now is re-emerging... ”
Tom Gentzel, NSBA Executive Director

In fact, our letter said, the regulations are overly prescriptive and “run afoul of congressional intent to restore governance to state and local education leaders and they perpetuate the ‘No Child Left Behind’ structure of maintaining rigid federal specifications for state accountability systems.” In citing numerous examples, we made the point that despite an overwhelming, bipartisan effort by the Congress to give state and local officials the discretion they need, the bureaucracy is clawing back its ability to direct what these leaders must do.

Perhaps it should come as no surprise that the parties that effectively lobbied over many years for a pervasive federal role in education would not simply walk away when ESSA was enacted, but instead are attempting to achieve through regulation what they were unable to win in the law. NSBA is actively challenging these efforts, as should everyone who believes in community ownership of public schools.

By Thomas J. Gentzel, Executive Director & CEO of the National School Boards Association



Anita Thomas, NDSBA General Counsel; Jon Martinson, NDSBA Executive Director; and Representative Mike Nathe discuss a loan forgiveness bill draft that would incentivize teachers willing to fill positions in rural areas.

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■ Recruitment Task Force

Continued from page 3

coming to North Dakota from out of state by issuing alternate licenses and by creating a “community expert” license.

Superintendent Baesler discussed research indicating that the number of students graduating from North Dakota’s education programs is sufficient to fill our staffing needs. However, a number of these graduates do not apply to teach in a rural school setting, and as the national teacher shortage ramps up, rural administrators have said their schools are reaching crisis levels.

Other states suffering teacher shortages have begun to offer a financial incentive. A new law in Indiana provides students with up to \$7,500 each year toward college tuition and books as long as they pledge to teach in Indiana for at least their first five years.

The Montana Rural Education Association will offer about 20 student teachers a \$1,000 scholarship to teach in rural areas. The association believes a taste of small-school teaching and small-town life will entice students to remain in the district and teach full-time.

Members of the task force have settled on introducing legislation for a loan forgiveness program to fill open teaching positions in geographical areas of critical need. While a bill has not yet been drafted, the concept is to provide teachers willing to work in rural areas with a payment of (for example) \$4,500 the first year; \$4,500 the second year; and \$6,500 the third year—all off the salary schedule. Funding for this initiative would be provided by the legislature and placed in the Department of Public Instruction’s (DPI) budget. School districts would be reimbursed by DPI.

Representative Mike Nathe, Chair of the House Education Committee,

is willing to draft a bill and introduce it during the 2017 Legislative Session. To be successful, we will need a strong coalition of school board members, administrators, teachers, and legislators to support this initiative.



mark your calendar

2017 NDSBA Negotiations Seminar

February 9-10, 2017

Ramkota Hotel, Bismarck

2017 NSBA Annual Conference

March 25-27, 2017

Denver, CO

2017 NDSBA Annual Convention

October 26-27, 2017

Ramkota Hotel, Bismarck

2018 NDSBA Annual Convention

October 25-26, 2018

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