NDSBA Negotiations Seminar

NDSBA's Negotiations Seminar will be held Friday, February 12, at the Bismarck Ramkota Hotel. An Early Bird Session will be held on Thursday, February 11. Registrations forms have been sent to school district administrators and business managers. The form is also available on the NDSBA website at www.ndsba.org.

EARLY BIRD SESSION
Thursday, February 11
1:00-4:00 p.m.

SUPERINTENDENT EVALUATION
NDSBA will present its new superintendent evaluation template during this session and provide a brief overview of recommended procedures for completing the evaluation.

The second half of this session will feature a tutorial on the new electronic superintendent evaluation software presented by Dan Martin of Rocky Mountain Evaluations. 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, thus, providing greater accuracy and detail.

An annual fee for the electronic version is $75 per board member.

NEGOTIATIONS 2016

This year’s seminar will run from 8:00 a.m. until 4:30 p.m. on Friday, February 12.

Topics covered will be:
- Thoughts from NDSBA Executive Director about Negotiations
- An Alternative to School Board Members Serving as Negotiators
- Preparing for Negotiations: Data Collection, Negotiated Agreement Template, and Ground Rules
- Negotiations Basics
- Negotiating for School Districts: Lessons Learned from a Legal Perspective
- A Look at Bargaining Practices and Strategies Used by Unions presented by Andy Sever
- Fact Finding: Lessons Learned from a Legal Perspective
- Interactive Q & A with Negotiations Attorneys and Andy Sever
- Panel of Experienced Board Negotiators

Preregister by February 1 to take advantage of the lower preregistration fee.

NEGOTIATIONS SEMINAR

Andy Sever
A Look Behind The Curtain: Strategies and Practices Used by the Union

Over the last twenty years Andy Sever has negotiated all manner of public sector contracts. For the past fifteen years he has served as Director of Labor Relations for the Montana School Boards Association. During his tenure at MTSBA, he has negotiated contracts all across the state of Montana. Andy’s other duties with the School Boards Association include helping school districts deal with technology issues, whether it is addressing students issues such as sexting/online bullying or helping staff understand the role of technology and how to use it appropriately. Prior to working for management, Andy served as a field representative for the Montana Federation of Teachers/State Employees/Healthcare Employees for a little over five years. While working for the Montana Federation he served on the staff that helped merge the Federation with the Montana Education Association forming the MEA-MFT.

School Board Recognition Month

January is School Board Recognition Month. School board members serve countless hours working to make public education the best it can be for every child.

North Dakotans know the best government is closest to the people it serves. Board members live and work close to students, parents, and educators and, therefore, know their needs and desires better than anyone. In a climate of change and challenge, they develop policies and make tough decisions on complex educational issues that affect the entire community and the lives of individual students.

NDSBA thanks those individuals who devote their time, energy, and talents to North Dakota students by serving on their local school boards.
Rural Input Into Federal Education Policies and Regulations

In the Every Student Succeeds Act, Congress directed that the United States Secretary of Education, within 18 months, conduct a review of the Department of Education. The review is to focus on the Department’s organization and structure, as well as on its processes and procedures, with respect to the administration of programs and the development of policies and regulations. Congress would like the Secretary to assess the methods and manner through which, and the extent to which, the Department “takes into account, considers input from, and addresses the unique needs and characteristics of rural schools and rural local educational agencies.” In what appears to be a recognition of currently insufficient rural involvement, Congress directed the Secretary to “determine actions that the Department of Education can take to meaningfully increase the consideration and participation of rural schools and rural local educational agencies in the development and execution of the processes, procedures, policies, and regulations of the Department of Education. The Secretary of Education is to issue a preliminary report and provide a 60-day comment period for Congress and members of the public. A final report is to be issued to the Committee on Education and the Workforce of the House of Representatives. The final report must describe the actions developed as a result of the review and comments. Within two years, the Secretary of Education must carry out each action described in the report or provide a written explanation to the respective Senate and House Committees regarding the reason for not carrying out an action.

Succeed 2020 Policy Committee meets at NDSBA office on January 13, 2016

Pictured at right are Louise Dardis (Succeed 2020 Program Manager), Lisa Feldner (ND University System), and Ashley Kelsch (ND Governor’s Office)

Pictured at left are Kayla Effertz Kleven (Governor’s office), Steve McNally (Hess Corp.), Kyle Davison (South East Education Cooperative), and Jennifer Carlson (Northeast Education Services Cooperative)
### TEACHER AND ADMINISTRATOR 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 evaluation, contract, and nonrenewal deadlines.*

#### EVALUATIONS OF TEACHERS AND ADMINISTRATORS

**First three years after hired:** Evaluations must be made available on or before December 15 and on or before March 15.

**Fourth year or more:** Evaluations must be made available on or before March 15.

NDCC 15.1-15-01

#### TEACHER 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. NDCC 15.1-15-04 (2)
- **Offering contracts to newly hired teachers and administrators:** No deadline in law. Give new hires a reasonable timeframe to consider offer and return contract (e.g., 10 days).
- **Contract issuance during negotiations:** Issuance suspended until negotiations are complete. NDCC 15.1-15-04 (4)

#### NONRENEWAL DEADLINES FOR TEACHERS AND ADMINISTRATORS

- **Notice of contemplated nonrenewal:** In writing and no earlier than March 1 and no later than April 15. NDCC 15.1-15-05 (1)
- **Nonrenewal hearing deadline:** No later than April 21. NDCC 15.1-15-05
- **Notice of nonrenewal decision:** In writing and no later than May 1. NDCC 15.1-15-05-06 (10)

#### EXCEPTIONS TO NONRENEWAL DEADLINES (FIRST-YEAR TEACHERS & ADMINISTRATORS IN POSITIONS FOR LESS THAN TWO YEARS)

- **First-year teacher (defined as an individual teaching for the first school year since obtaining a license to teach):** After March evaluation is complete, board meets with teacher in executive session to discuss reasons for contemplated nonrenewal. Notice of nonrenewal decision must be provided no earlier than April 15 and no later than May 1. NDCC 15.1-15-02 (4)
- **Administrators employed in that position by a district for less than 2 years:** Provide written notice of nonrenewal decision before May 1. Board shall meet with administrator in executive session to convey reasons for nonrenewal if requested. NDCC 15.1-15-05.1

#### SUPERINTENDENT EVALUATION, CONTRACT, AND NONRENEWAL DEADLINES

**SUPERINTENDENT EVALUATIONS**

NDCC 15.1-14-03 (1) requires that each school board conduct two evaluations:
- On or before November 15
- On or before March 15

#### SUPERINTENDENT CONTRACT ISSUANCE & RENEWAL

- **Contract duration:** No more than three years NDCC 15.1-09-33 (25)
- **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 NDCC 15.1-14-11
- **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 contract.

#### NONRENEWAL DEADLINES FOR SUPERINTENDENT WITH A DISTRICT LESS THAN TWO YEARS*

- **Notice of nonrenewal:** Provide written notice of nonrenewal decision before May 1. Board shall meet with superintendent in executive session to convey reasons for nonrenewal if requested. NDCC 15.1-14-12 (1)

#### NONRENEWAL DEADLINES FOR SUPERINTENDENT WITH A DISTRICT TWO OR MORE YEARS*

- **Notice of contemplated nonrenewal:** In writing and on or before April 15 NDCC 15.1-14-09 (1)
- **Nonrenewal hearing deadline:** On or before April 21. NDCC 15.1-14-09 (1)(b)
- **Notice of nonrenewal decision:** In writing and no later than May 1 NDCC 15.1-14-10 (8)

*Count only years employed as superintendent

Questions? Contact NDSBA at 800-932-8791.
### 2016 School Board Election Deadlines

Annual school board elections must be held between **April 1 and June 30** by NDCC 15.1-09-22. The following is a mock timeline using June 7, 2016, as an example election date. If you have a different election date, compute your schedule in accordance with state law cited below. Please note that if your school board election is held in conjunction with a county election, the county election board “shall administer the election in the same manner as the county or state election” per NDCC 15.1-09-13 (4).

#### March 2016
- **March 5, 2016**: Thirty days before the filing 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 2016
- **April 4, 2016**: An individual seeking election to the board of a school district shall prepare and sign a document stating the individual’s name and the position for which that individual is a candidate. A candidate shall also file a statement of interests as 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 four p.m. of the sixty-fourth day before 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 sixty-four days before the election of the offices to be filled at the election and any measures 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 28, 2016**: At least forty 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 be candidates by meeting the provisions of section 15.1-09-08. (NDCC 15.1-09-11)

#### May 2016
- **May 3, 2016**: 1. At least thirty-five 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 equally as possible. (NDCC 15.1-09-13 (1))

2. At least thirty-five 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 voters in the precinct. (NDCC 15.1-09-13 (2))

- **May 24, 2016**: 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 vote. (NDCC 15.1-09-09)

#### June 2016
- **June 7, 2016**: School board election

- **June 13, 2016**: 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 14-16, 2016**: 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 of the duty to take an affirmation or oath of office. (NDCC 15.1-09-17)

- **June 14-23, 2016**: 1. Within ten days after the canvass by the school board, the business manager shall certify the individuals elected and their terms to the county superintendent of schools. (NDCC 15.1-09-17)

2. An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office within ten days after receiving notice of the election or appointment and before commencing duties. (NDCC 15.1-09-25)
Mandatory Reporters – Immunity from Liability issues addressed by the Sixth Circuit Court of Appeals

North Dakota Century Code section 50-25.1-03 provides in part that any schoolteacher, administrator, or school counselor, among others, who has knowledge of or reasonable cause to suspect that a child is abused or neglected, shall report the circumstances to the Department of Human Services, or its designee, if the knowledge or suspicion is derived from information received by that person in that person’s official or professional capacity. The North Dakota Century Code goes on to provide that any person, other than the alleged violator, participating in good faith in the making of a report is immune from any liability, civil or criminal, except for criminal liability as provided by section 50-25.1-13. Liability exists if the individual willfully makes a false report.

A recent ruling by the Sixth Circuit Court of Appeals in Wenk v. O’Reilly affirmed a lower court’s decision that a school district employee in Ohio was not entitled to qualified immunity for having reported a parent’s alleged child abuse to children’s services. The plaintiffs were parents of a cognitively disabled daughter who required special education services. The plaintiffs actively sought broader social opportunities for their child. There were some disagreements between the school district and the parents as to this matter.

Meanwhile, the school district’s Director of Pupil Services had been approached by the child’s teachers and made aware of information regarding the father’s alleged abusive behavior toward his daughter. The Director did not independently investigate the allegations, but reported the behavior to children’s services. The child’s parents filed a complaint alleging First Amendment retaliation and violation of substantive due process by the Director and other school officials. The district court denied a motion for summary judgment on the basis of qualified immunity.

During the various proceedings, the parents had successfully argued that the Director’s report of the abusive behavior was motivated at least in part by the parents’ protected conduct, i.e., the advocacy of broader social opportunities for their child. The Director was unable to persuasively argue that she would have made the same report absent the parents’ protected conduct. The Sixth Circuit maintained that the parents’ right to be free from retaliation for exercising their First Amendment rights was clearly established.

The takeaway from this case is that while mandatory reporting laws are to be strictly followed, school personnel may not automatically be immune from First Amendment retaliation claims and must take care to ensure that any reports they make regarding alleged abuse are not motivated by any reaction to parental advocacy or any other parental exercise of First Amendment rights.

STATE MILEAGE RATE CHANGES!

As of January 1, 2016, state rate for mileage reimbursement is $54 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 under Fiscal and Administrative Policy Updates Effective 01/01/2016. There is also a direct link on the NDSBA webpage under QuickClicks.

Jack Maus, Superintendent of Schools for Grafton Public School District, has been named the North Dakota Superintendent of the Year by the North Dakota Association of School Administrators (NDASA), as part of the ARAMARK—American Association of School Administrators (AASA) Superintendent of the Year Program.

As the North Dakota Superintendent of the Year, Maus will be placed in competition with other state winners for the award of National Superintendent of the Year. In addition, he will be honored along with other finalists at the National Conference on Education in Phoenix, AZ, February 11-13, 2016.

Maus attended Mayville State College graduating with a Bachelor of Arts Degree in Social Studies and Physical Education. Jack began his career as a social studies teacher and basketball coach at New Leipzig, North Dakota. He taught in New Leipzig for 10 years with the last two years serving as high school principal. Maus then began working on his Master’s Degree in the summer of 1985 and earned a degree in Educational Leadership from the University of Mary in Bismarck in the summer of 1988. He has been superintendent in Grafton since 2006.

Maus currently resides in Grafton with his wife, Kathy, of nearly 40 years. They have been blessed with five children and 15 grandchildren.
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 start the process early in February to ensure compliance with the statutory deadline. The statute also requires that the superintendent be evaluated using a satisfactory or unsatisfactory rating. If an individual serves in a superintendent/principal role, that individual should be evaluated separately for each position.

2016 NDSBA Negotiations Seminar
February 11-12, 2016
Ramkota Hotel, Bismarck

2016 NSBA Annual Conference
April 9-11, 2016
Boston, MA

2016 NDSBA Annual Convention
October 27-28, 2016
Ramkota Hotel, Bismarck

2017 NDSBA Annual Convention
October 26-27, 2017
Ramkota Hotel, Bismarck