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Excellence in North Dakota public education through local school board governance ■ VOL XXXVIII ISSUE 2

NSBA Bill: Local Educational Agency Governance, Flexibility, and Efficiency Act of 2013

In recent years, the U.S. Department of Education (ED) has engaged in a variety of activities to reshape the education delivery system. All too often these activities have operated to impact local policy and programs in ways that have been beyond the specific intent of federal authorizing legislation. Whether in the form of regulations, rules, grant conditions, guideline materials, or other formats, many of these requirements that have emanated from the ED are viewed by local education agencies as not only unnecessary or beyond the intended direction of legislation enacted by Congress, but also placing unnecessary limits on flexibility that local education agencies need to best meet local conditions as well as to meet state and federal goals in education.

Additionally, local school boards frequently find that these federal regulations and grant conditions--directly or through federal requirements

placed on the states--carry significant cost in dollars, staff time, and program decisions that detract from resources needed to support their education program. The result again limits the flexibility of local school boards to make on-the-ground decisions that serve the best interests, conditions, and needs in the school district.

The vital national interest in representative self-governance in education through local school boards is being weakened, as is the representative role of Congress to establish national policy and direction in education.

The National School Boards Association (NSBA) has prepared draft language for a federal bill to establish several procedural steps that the ED would need to take prior to initiating regulations, rules, grant requirements,

and guidance documents, among other regulatory materials, to ensure that the ED's actions are consistent with the specific intent of federal law and are supportable at the local level. These procedures are intended to strengthen capacity at the local level in ways



that current procedures have not in protecting local school district governance from unnecessary and counter-productive federal intrusion--either directly or through requirements placed on states.

This legislation is also intended to provide House and Senate committees that oversee education with better information regarding local impact of the ED's activities. Further, the legislation is designed to underscore the role of Congress as the federal policy maker in education and to ensure that decisions made at the federal level best support needs and goals of local school systems.

--Issue Brief (NSBA)



Final Agreements Should Wait

NDSBA encourages school boards to complete negotiations after the end of the Legislative Session. Work on House Bill 1319 is ongoing. The final funding formula, possible increase in minimum amount of annual salary for teachers, and mill levy limitations are not complete.

Election Deadlines

North Dakota election laws are specific regarding dates and deadlines. Relevant election law is found in NDCC 15.1-09. Election deadline information and a sample calendar were included in the January *Bulletin* and are posted on NDSBA's website at www.ndsba.org under "Quick Clicks."

Superintendent Evaluations

North Dakota law requires that a school board complete the superintendent's summative evaluation process **before March 15**.



from the director's chair

■ by Jon Martinson, NDSBA Executive Director

NSBA Bill Draft, School Lunch Programs, and the Legislative Session

A delegation of school board members met in January with North Dakota's Congressional Delegation in Washington, D.C., during NSBA's Federal Relations Network. We asked our representatives for their support for a bill draft written by the National School Boards Association (see article in this issue) that seeks to ensure that benefits of local school district governance are not eroded through activities by the U.S. Department of Education (ED).

In recent years, involvement by ED in education has grown and local self-governance weakened through agency action not specifically directed by Congress. Therefore, the purpose of the bill is to support the decision-making role of local educational agencies to meet their education goals, including

those goals established by Congress, and to limit the role of the Secretary of ED to actions authorized by federal legislation.

Other topics discussed include sequestration, a proposal to add a Rural Education Council to the ED, and school lunch guidelines (a follow-up to the resolution passed by the 2012 Delegate Assembly encouraging the U.S. Department of Agriculture (USDA) to amend their federal regulations related to the School Lunch Program, School Breakfast Program, and "a la carte" food sales to allow for local control).

Although this next issue was not discussed on Capitol Hill, readers should be aware that a recent *School Board News* article mentions the USDA has proposed new rules on snack foods that would affect every school district. No state currently has standards that fully comply with the department's proposal for "competitive foods," which includes foods sold in vending machines, school stores, and in "a la carte" lines. Along with the new rules comes additional reporting and monitoring requirements. The rules are part of the 2010 Child Nutrition Act reauthorization.

Lucy Gettman, director of Federal Programs at NSBA says, "The USDA is regulating in the dark when it comes to the impact on instruction and school revenue from competitive food sales, because there is no comprehensive data on how much revenue schools raise and how it is used."

Switching to state politics, there are a number of education bills being heard by legislators in Bismarck that range from school vouchers and funding to medication administration and allowing concealed weapons in schools.

The Education Coalition (NDSBA, NDCEL, and NDEA) developed a

position paper outlining our objections to **HB1466** that would provide public funds (\$32.6 million) to non-public schools. The bill is bad public policy because non-public schools are not required to comply with state law to the same extent as public schools. Furthermore, providing public funds to a faith-based, non-public school may be unconstitutional based on separation of church and state.

NDSBA asked legislators to sponsor three bills this session. First, **HB1276** deals with administration of medication in schools. The bill provides an exemption for schools to the nurse practices act, liability protection for individuals (acting in good faith) who administer medication to a student upon parental consent, and an "opt out" provision for a teacher or classified staff member who chooses not to administer medication. This bill passed the House on a 91-1 vote and now goes to the Senate.

The second bill relates to veterans' preference. While superintendents and teachers are exempt from veterans' preference, principals are not. Therefore, **SB2201** adds an exemption for "administrators," i.e., superintendents, assistant superintendents, principals, and assistant principals. The bill passed the Senate with a 46-0 vote.

The third bill (**SB2216**) amends current statute relating to causes of vacancy for school board positions so that it mirrors reasons listed for other elected officials. Revisions include a provision allowing a vacancy to be declared when a school board member fails to discharge duties of the office, when the failure has continued for sixty consecutive days without reasonable cause. The bill passed the Senate on a 46-0 vote.

Thank you for keeping in touch with legislators via your phone calls, emails, and meetings.

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Legislative Session Nearing Crossover

March 1, 2013, is crossover date for the North Dakota legislature. Crossover is the date when bills from one house are passed to the other house. You can track bills affecting education and school boards through NDSBA's website, www.ndsba.org. The website provides access to the bill tracking list, bill status information, hearing schedules, and the weekly Legislative Newsletter that is updated each Friday.

In addition to the three bills introduced at NDSBA's request, HB1276, SB2201, and SB2216, other legislative bills that have passed and will be sent to the other house are:

House Bill 1028 amends concussion management program requirements. Changes include clarification as to who has the duty to remove a student from practice, training, or competition and includes a training requirement for those individuals. The bill also prescribes additional requirements for the authorization that a student must receive before being allowed to return to practice, training, or competition.

House Bill 1217 creates requirements for a personal finance curriculum at the middle school level.

House Bill 1230 requires that contributions currently in law for TFFR will continue to be paid until the plan reaches 100 percent funded ratio (an increase from 90 percent).

House Bill 1268 requires that a school district include information regarding the manner in which a student obtaining a driver's license may make anatomical gifts in its driver education curriculum.

Senate Bill 2102 changes requirements for annual administration of state academic achievement tests. Reading and mathematics tests must be administered in at least one grade level selected from nine through eleven instead of just grade eleven. Science tests must be administered in at least one grade level selected from ten and eleven instead of grade eleven.

The education funding formula bill, **House Bill 1319**, has been amended and will be presented to the full House for final approval.



NDSBA's Director of Policy Services Alyssa Martin testifies on SB2263.

Several bills on NDSBA's tracking list have not received committee action as of the time of this publication, including:

- DPI's budget and K-12 funding (HB1013)
- bills related to possession of a concealed firearm in schools (HB1224, HB1283, and HB1366)
- a bill that creates a process for the final annual budget and levy resolution to be placed on the ballot for approval or rejection by the qualified electors of the school district (HB1199)
- a bill that requires school districts to publish itemized lists of expenditures including a check number if a payment is made by check, a description of any electronic fund transfer, the name of each payee, and the amount of each payment (HB1255)
- duty to report a missing child or death of a child (SB2125)
- an appropriation for school district safety grants (SB2267)
- an appropriation for rapid enrollment grants (HB1261)

PPACA Nondiscrimination Rules

On March 23, 2010, the Patient and Protection Affordable Care Act (PPACA) was signed into law. One provision of the law prohibits employers from discriminating in favor of "highly compensated employees" when providing health benefits to their employees under a group insurance plan (the Nondiscrimination Rules). For public school districts, that meant that a school district could no longer pay a greater percentage of cost of health insurance for "highly compensated employees," such as a superintendent, than it did for other full-time employees. If a school district violated the Nondiscrimination Rules, it would be subject to monetary penalty.

For schools with health plan years that run from July 1-June 30, the Nondiscrimination Rules were scheduled to become effective July 1, 2011, however, in January 2011 the Internal Revenue Service announced that it was temporarily suspending any enforcement of Nondiscrimination Rules and considering issuing regulations that would eliminate or greatly reduce impact of the Nondiscrimination Rules on school districts.

NDSBA will continue to monitor the status of IRS regulations concerning the Nondiscrimination Rules.

NDDTSEA Annual Conference

The North Dakota Driver and Traffic Safety Education Association's (NDDTSEA) 42nd Annual Conference will be held at the Best Western Seven Seas Inn in Mandan April 4-6, 2013.

For additional information, or to print a conference registration form, go to the association's website at <http://www.minotstateu.edu/drivered/nddtsea/>.

ESEA Waiver Application Will Not Be Revised

State Superintendent Kirsten Baesler announced that the revised waiver application of certain provisions of the No Child Left Behind Act that was submitted last December will be reviewed by U.S. Department of Education (ED) Secretary Arne Duncan and the Executive Committee without

any further revisions.

The key issue under consideration is the level by which the number of non-proficient students will be reduced over a six-year period. North Dakota's waiver application proposed reducing the number of non-proficient students by 25 percent over six years. The Department

of Education does not think that percent is rigorous enough and requested the goal be set at 50 percent.

Superintendent Baesler informed the ED that North Dakota "would not be revising its application any further and requested the current application be submitted as is."

Labor Relations Reminders

Every February, NDSBA begins receiving calls about procedures associated with negotiations, contract offerings, and nonrenewals. Below is a brief summary of legal dates and deadlines.

Offering of contracts to returning teachers	Contracts can be offered no earlier than March 1 or later than May 1 . If formal negotiations are in progress, the May 1 deadline does not apply. (NDCC 15.1-15-04)
Notice of contemplated nonrenewal	Notice can be given no earlier than March 1 or later than April 15 with hearing held on or before April 21. (NDCC 15.1-15-05)
Opening negotiations	Either party may give notice of desire to negotiate—notice must be given no less than sixty days before the annual anniversary date of the contract (NDCC 15.1-16-13). A district's negotiated agreement may have a notification deadline earlier than the sixty days, in which case that date would be followed. It is good to start early so you can have contracts out before the end of school or, at the very least, before school starts in the fall. (In legislative years, you should wait until the end of the Session so you know what state funding will be and if there will be new state mandates affecting contracts.)



Wilton School District

Search extended
 Contact: Jon Martinson
 (701) 255-4127
 e-mail: jon.martinson@ndsba.org
 Application: www.ndsba.org
 Deadline: March 8, 2013

Finley-Sharon

Superintendent/High School Principal
 Contact: Jon Martinson
 (701) 255-4127
 e-mail: jon.martinson@ndsba.org
 Application: www.ndsba.org
 Deadline: March 15, 2013

Beulah

Contact: Jon Martinson
 (701) 255-4127
 e-mail: jon.martinson@ndsba.org
 Application: www.ndsba.org
 Deadline: March 20, 2013