Welcome New Board Members!

Congratulations to all newly elected board members and welcome to your first issue of NDSBA’s Bulletin!

As new school board members you will be exposed to many issues and concerns that may or may not be district related, but the board must remain focused on a common goal: promoting student achievement. Prioritize issues based on the impact they will have on achievement in your district, and you will find they can be addressed with greater objectivity and fewer problems.

Again, congratulations and welcome aboard!

2014 NDSBA School Law Seminar Features Exceptional Schedule of Speakers

NDSBA invites school board members, superintendents, business managers, and attorneys to attend the 2014 NDSBA School Law Seminar. The seminar begins at 8:00 a.m. on Thursday, October 23, with North Dakota’s U.S. Attorney Tim Purdon. Mr. Purdon will present his view on the changing landscape in North Dakota from the U.S. Attorney’s Office and will answer questions from attendees.

Sonja Trainor, Director, Council of School Attorneys, and Senior Staff Attorney, National School Boards Association, will present Department of Justice and U.S. Department of Education guidance on racial discrimination in student discipline and also student data privacy and cloud computing. Ms. Trainor will also be available for questions at the end of her presentation.

Information on contracts, procurement, and the state P-card program will be provided by Sherry Neas, Director, North Dakota Office of Management and Budget Central Services Division, and Jeff Larshus, Accounting Manager, North Dakota Office of Management and Budget.

Alyssa Martin, NDSBA Director of Policy Services, and Annette Bendish, NDSBA Legal Counsel, will discuss Board Communication with the Public and Responding to Complaints. This interactive presentation will address potential scenarios and how school district administration and board members should respond.

Ms. Bendish will then provide an update on current cases, attorney general opinions, and review frequently asked questions of NDSBA staff.

Joseph Wetch, shareholder at Serkland Law Firm in Fargo, will share information on the Family Medical Leave Act (FMLA) and use of leave time along with Americans with Disabilities Act (ADA) requirements and reasonable accommodation for school district employees.

The day will conclude with a presentation on Hot Topics in Employee Online Speech by Melanie Gurley Keeney, a partner at Tueth, Keeney, Cooper, Mohan & Jackstadt P.C., in St. Louis, Missouri.

The seminar has been approved for 5.5 hours of continuing legal education credit in North Dakota. Registration forms and the complete schedule are online: http://www.ndsba.org/attorneys/seminar.asp.

Check-in and continental breakfast begin at 7:00 a.m. -- arrive early to avoid lines!

Designate Delegates and Alternates

NDSBA’s Annual Convention is an excellent event for board member development. It is also the time NDSBA elects state board members and adopts resolutions that drive our legislative agenda.

Resolutions are voted on at the Delegate Assembly where registered delegates are responsible to cast votes representing their local boards.

Resolutions that are passed dictate NDSBA’s collective legislative position on critical issues. It is important to review proposed resolutions as a board so your delegates come prepared.

Convention delegates and alternates should be clearly noted on the district’s registration form that must be received in the NDSBA office no later than October 10 in order to vote at Delegate Assembly. Only those registered as alternates BY THIS DEADLINE will be allowed to substitute for a registered delegate. There will be no exceptions.
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SEPTEMBER 2014

If your board votes to bring a resolution to the convention floor for consideration by the Delegate Assembly, the following process must be followed:
1. Have 400 copies of your resolution ready to distribute at the close of the First Business Session on Thursday afternoon.
2. At the Second Business Session on Friday afternoon, the chair will ask if there are resolutions that were distributed on Thursday. At that time, a delegate from your board must come to the microphone and move the resolution. A delegate from a different board must make the second.
3. Once a motion and second have been made, your resolution will be discussed and voted on by the Delegate Assembly.

Board Retreats, Electronic Communication, and the Open Meetings Law

BOARD RETREATS
As school boards begin to schedule board retreats, it is important to remember that board retreats are meetings under the open meetings law and must be noticed appropriately.

In 2009-O-13, the North Dakota Attorney General stated, “[a]ll meetings of the board of a public school district are required to be open to the public and preceded by public notice in substantial compliance with N.D.C.C. §44-04-20. The definition of ‘meeting’ is not limited to gatherings at which formal action is taken on an item of public business and includes ‘work sessions.’” The Attorney General concluded that a retreat is a meeting under the law and notice is required.

ELECTRONIC COMMUNICATION
In a recent North Dakota Attorney General Opinion, 2014-O-12, the Attorney General addressed the question of whether emails exchanged among a quorum of the school board were meetings subject to open meetings law.

The Attorney General opined that “all meetings of a public entity must be open to the public and notice must be provided. . . . A meeting can occur in person or through electronic means, such as by telephone or email. The analysis of whether a meeting took place by email is no different than that of other meetings. As long as the exchange occurs among a quorum of members of a governing body of a public entity and public business is discussed, it is a meeting subject to notice requirements.”

Emails that “go beyond mere ministerial matters and delve into the substantive merits of the suggested agenda topic, provide opinions regarding public business, or attempt to build support and consensus for certain positions, are equivalent to having a meeting that requires notice.”

Convention Rooms
If you have sleeping rooms reserved at the Ramkota Hotel for the 2014 NDSBA Annual Convention, you must give them a specific name for each reserved room by October 1, or the rooms will be released. Contact Ramkota Hotel reservations (701)258-7700.

NDSBA Past President Angela Korsmo and NDSBA Vice President Jim Rostad served as NDSBA delegates at the Western Region meeting in Omaha, Nebraska, in September.
Governmental Affairs Committee Resolutions Report

NDSBA’s Governmental Affairs Committee (GAC) met August 21 to act on resolutions for consideration by the Delegate Assembly at the Annual Convention. Resolutions remain as standing resolutions for four years unless significant legislative or staff action prompt an earlier review. At the end of four years they are dropped unless readopted by the Delegate Assembly. There were two new resolutions submitted by school boards by the deadline of August 11. One additional resolution, North Dakota State Standards, was written at the request of the GAC and adopted by email correspondence after the August 21 meeting. Boards may bring a resolution to the convention floor for consideration by the Delegate Assembly.

Following are recommendations of the GAC:

NEW RESOLUTIONS RECOMMENDED FOR ADOPTION

NORTH DAKOTA STATE STANDARDS

Whereas, state standards are designed to build on the most advanced current thinking about preparing students for success in college, career, and life; and

Whereas, state standards delineate what students should know and be able to do by the time they finish school at each grade level but do not dictate how teachers should teach; and

Whereas, state standards are benchmarks for what students should learn and not curriculum (what is taught); and

Whereas, state law specifically gives local school districts the responsibility of developing and implementing curriculum (materials, resources, textbooks, unit plans, and lesson plans); and

Whereas, the means of assessing students and the data that result from those assessments are up to the discretion of each state and local school district; and

Whereas, the state standards initiative was established and constituted a state-led effort coordinated by the National Governors Association and the Council of Chief State School Officers; and

Whereas, the state standards initiative is a state-led effort wherein over 60 educators from all areas in North Dakota carefully examined standards in math and English language arts, compared them to existing state standards, found them to be more rigorous and would therefore better prepare our students; and

Whereas, the state standards initiative is not part of No Child Left Behind or any other federal initiative;

Therefore, be it resolved that NDSBA shall support implementation of North Dakota State Standards. (Governmental Affairs Committee)

COSTS ASSOCIATED WITH ENGLISH LANGUAGE LEARNERS

Whereas, the state of North Dakota recognizes the need for additional resources to meet the needs of students who have limited or no English proficiency and

Whereas, the current foundation aid formula, while providing some additional financial support to districts with English language learner (ELL) students, doesn’t cover the full costs associated with educating ELL students; and

Whereas, the Picus Odden report, dated June 4, 2014, identified the need for additional resources to support adding a “newcomer” ELL program for districts that are enrolling students without either English language skills or prior experience in school; and

Whereas, the number of districts statewide that are enrolling ELL students is increasing;

Therefore, be it resolved that NDSBA shall support the state ensuring program funding equity for school districts, including full funding of the costs associated with English language learners. (Fargo Board of Education)

SCHOOL CONSTRUCTION LOAN PROGRAM

Whereas, the state of North Dakota recognizes the need for assistance to local school districts to meet their infrastructure needs through the school construction loan program; and

Whereas, the requests for school construction loans during the current biennium were significantly greater than the funds appropriated to the program; and

Whereas, the continued population growth and accompanying increases in student enrollment increase our state K-12 infrastructure needs and

Whereas, this program helps to lower the property tax burden associated with building or remodeling public schools; and

Whereas, this program is actually a loan to local school districts that will be repaid to the state, rather than a direct allocation of state revenues;

Therefore, be it resolved that NDSBA shall support increasing the total funds available for the School Construction Loan Program. (Fargo Board of Education)

RESOLUTIONS THAT ARE FOUR YEARS OLD AND RECOMMEND FOR READOPTION AS WRITTEN

Early Childhood Education

NDSBA shall support separate state funding for preschool programs meeting prescribed standards.

Funding Adequacy, Board Taxing Authority, and Property Tax Reductions

NDSBA will support direct state funding of K-12 education at a level adequate to reduce reliance on local property taxes.

After-school Programming

NDSBA will support legislation that will allow all school districts in North Dakota an equal opportunity to participate with after-school programming.

RESOLUTIONS THAT ARE FOUR YEARS OLD AND SCHEDULED TO BE DROPPED

Teachers’ Fund For Retirement and Public Employees’ Retirement System

NDSBA shall support TFFFR and PERS contribution increases as long as there are no enhancements to benefits until the plans are at least 90 percent funded and only if accompanied by employee contribution increases, benefit concessions, and adequate state funding to cover employer contribution increases in addition to normal foundation aid increases.

Pay For Performance

NDSBA shall support an alternative compensation plan with appropriate funding.

Mandatory Attendance Age

NDSBA shall seek legislation requiring the Department of Public Instruction to provide strategies, tools, and funding to identify and assist at-risk students throughout their education experience through the time they graduate or until they reach age 18.
The NDSBA Board of Directors has approved the following resolution that will be presented for Delegate Assembly approval at the annual convention.

TEACHERS’ FUND FOR RETIREMENT

Whereas, the mandatory contributions by employers have increased by 64.51% since 2008 to the current annual rate of 12.75%; and

Whereas, the mandatory contributions to employees have increased by 51.61% since 2012 to the current annual rate of 11.75%; and

Whereas, these mandatory contribution rates are now locked in until the plan is funded at a level equal to 100% of the actuarial projected liability of the plan; and

Whereas, as of 7/1/2013 the plan was only funded at a level of 58.8% and the 100% target will most likely not be achieved in the next 20 years; and

Whereas, the increases in mandatory contributions haven’t been fully funded by earmarked increases in state funding to school districts; and

Whereas, the increases in mandatory contributions have made it even more difficult to negotiate salary packages with certified staff; and

Whereas, this problem will be perpetuated by future increases in certified staff salaries and by the new hires being automatically included in the current TFFR system;

Therefore, be it resolved that NDSBA shall support any of the following solutions to help address this critical issue:

1. A separate state appropriation that gives each school district an annual amount equal to 5% of their certified staff payroll, until such time as the rollback occurs to the pre-2008 contribution levels.

2. A series of catch-up allocations from the state’s general fund sufficient to meet the 100% threshold established by the state legislature.

3. A rollback to the pre-2008 contribution levels when the fund is determined to be at 70% of the actuarial liability amount.

4. Close the TFFR program to new hires effective July 1, 2015, and offer them participation in the state’s PERS plan instead.

5. Terminate the TFFR defined benefit plan for active employees and roll participants account balances into the state’s PERS plan, with any shortfall in plan assets to be made up by the state.

(NDSBA Board of Directors)