Open Records Law Change Affects Hiring Process

During the 2017 North Dakota Legislative Session, SB 2152 was passed. This bill made changes to the open meeting and public record requirements related to applications for public employment. These changes affected the process school boards go through when hiring. As many of our member districts search for their next administrator, we felt a timely reminder of this change would be helpful.

The new language can be found in North Dakota Century Code § 44-04-18.27. The law change makes applications of three or more qualified candidates received by a public entity and any information that could be used to identify the applicants confidential records until three or more of the applicants have been designated as finalists (if a district receives three or less qualified applicants, the records are NOT confidential). Once finalists have been designated, the records of the finalists become open to the public. Practically speaking, this means that boards will need to enter into executive session to discuss applicants prior to designating finalists. Once finalists have been chosen, the process becomes open as it was prior to the passage of SB 2152. Please do not hesitate to contact NDSBA with any questions relating to this change.

Follow That Goose!
By Kerri Schelling, Kentucky School Boards Association Executive Director
Courtesy of the Kentucky School Advocate, February 2018

I realized early in my career that effective leadership was the underpinning on which everything else had to be based. While I credit many capable professors and authors for my education over the years, I would be remiss if I didn’t acknowledge my original teacher – the goose.

When I was growing up, it was common to see flocks of geese flying south for the winter. I learned that their unmistakable “V” formation was a telltale sign that they knew two things: Cold weather was coming and, most importantly, the only way to ensure survival on the long journey was to work together. The fact that the geese returned each spring was an obvious testament to the power of teamwork, and their impact on my understanding of leadership has stayed with me to this day.

In 1972, a Baltimore science teacher-turned-administrator, Dr. Robert McNeish, was so intrigued by goose migration behavior that he wrote an article entitled “Lessons from the Geese,” demonstrating the connection between the innate behaviors of the birds, the scientific principles at play, and how this knowledge can be applied to leadership. Here are a few things we can learn from our feathered friends:

- **Work Together**
  Those who share a common direction and sense of purpose are more likely to get where they are going faster and more efficiently because they support one another. Just as the flapping of each goose’s wings creates uplift and reduces drag for the birds that follow, school boards that value collaboration and partnerships are more effective than those that go it alone.

- **Share the Load**
  It pays to take turns doing the hard tasks and sharing responsibilities. Flying in a “V” is easier for every goose except the one in front because it faces the most air flow. Eventually, the lead goose will tire and will rotate to the back of the flock, where the resistance is lower and less energy is required, while another bird takes its place. Geese shift positions frequently to ensure every member stays healthy and strong. As with geese, people are interdependent on one another’s skills and capabilities. Every member of a school board adds a different perspective and, over time, changing circumstances, initiatives, and projects will require each member to share his or her unique arrangement of gifts, talents, or resources to achieve the desired goal.

- **Communication is Key**
  Effective leaders rely on open, honest, and continuous communication, just as geese rely on frequent honking during flight. It is thought that they honk to communicate each goose’s position.

Superintendent Evaluations

North Dakota law requires that a school board complete the superintendent’s evaluation ON OR BEFORE MARCH 15. A sample evaluation form is available on NDSBA’s webpage under RESOURCES.
Legal Spotlight
Review of Leave Provisions in Employment Contracts and Policies
by Amy De Kok, NDSBA Legal Counsel

As another contract negotiation season nears, it is important for school board members and school officials to familiarize themselves with the obligations set forth in the negotiated agreement and board policies. There are several reasons for doing so, namely to identify potential provisions that need clarification or modification in upcoming negotiations. This is especially true with provisions addressing employee leave, including sick leave, vacation leave, paid time off, or personal leave. Leave provisions can vary from district to district; however, most districts provide some type of time off with pay. In lieu of providing both sick leave and vacation leave, some employers combine sick leave and vacation leave into what is called personal time, paid time off (PTO), or paid leave. Employees may use the time accrued for either an illness when they are not able to work or for paid vacation time. When reviewing and considering your leave provisions or policies, there are certain factors of which all board members and school officials should be aware. First, NDCC §15.1-16-19 expressly requires that school boards allow a teacher to “use at least ten days of sick leave each school year without a loss of compensation.” Moreover, teachers are allowed to accumulate sick leave and carry over at least 30 days of such accumulated unused sick leave from year to year. These requirements only apply to “teachers” as that term is defined in Chapter 15.1-16, as well as corresponding case law. It does not require an employee to take vacation by a certain date or lose the vacation (“use it or lose it”), provided that the employee is given a reasonable opportunity to take the vacation. Finally, it is always important to review your leave provisions and policies to determine whether they have the potential to impact individuals in a discriminatory manner in violation of anti-discrimination laws. This can take many forms and NDSBA encourages you to address this issue with district counsel. At a minimum, NDSBA recommends that you have your counsel review the proposed terms and conditions of a negotiated agreement prior to ratification and/or to utilize NDSBA’s template board policies to avoid these unintended results.

As always, please feel free to contact NDSBA for guidance on the legal aspects and policy considerations associated with contractual leave provisions or leave policies.

Business Manager Certification Program Accepting Applications

The North Dakota School Business Manager Certification Program is now accepting applications for new students to begin courses this summer. Application forms are available online at http://ndsbmcp.org/index.php/handbooks-and-forms/ and will be accepted until June 1, 2018. For more information on the program, including cost of tuition, prospective students may download a program brochure at http://ndsbmcp.org/index.php/handbooks-and-forms/. Please contact rebecca.duben@ndsba.org regarding the program.

Building HR Together

People are the heart of local government – its most valuable resource. They are the backbone that supports its mission and purpose. Human resource management is the primary care doctor that ensures a healthy government. It includes all the policies, processes, training, strategies, and activities that impact staff.

Building HR Together – the 5th Human Resource Conference for Local Governments will be held on April 18-19, 2018, at the Ramkota Hotel in Bismarck. Registration is now open at the new HR Collaborative website at www.hrndgov.org. Register there to get regular HR updates as well.

The conference will offer a range of topics for individuals with full- or part-time HR responsibilities, including technical requirements such as FLSA exempt/non-exempt status or time reporting to motivational topics like "Building a Culture that Transforms a Workplace" and leadership topics like “The Heart of Change.” Register today!
Negotiations Seminar

The 2018 NDSBA Negotiations Seminar was held on February 8-9 at the Ramkota Hotel in Bismarck. Two early bird sessions were held on Thursday, February 8, that addressed bargaining and teacher nonrenewal. The Negotiations Seminar on Friday, February 9, addressed negotiations basics, trends, and strategies. The seminar was informative and well attended.

Follow That Goose

Continued from page 1

to help them stay together and to provide encouragement to one another. On school boards where information is shared and communication is encouraged (both among members and to those who look to them for leadership), it is easier to stay focused, connected, and productive.

Every leader – current or aspiring – needs to remember that while the lead goose and its followers are driven to their destination by instinct, humans must be more intentional. The next time you hear the unmistakable honking overhead, be reminded that leadership does not happen because of a title and it can’t happen in a vacuum. An effective leader must have a clear vision of where the group is going, communicate it so that each can understand, inspire others to join the effort, nurture leadership from all, and share the credit when the goal is achieved. Years ago I heard someone say that many times a person doesn’t set out to be a leader – he sets out to make a difference. And that may be one of the best descriptions of school board members there is.

Teacher Shortage Loan Forgiveness Program Now Taking Applications

The Teacher Shortage Loan Forgiveness Program (TSLFP) is now accepting applications. The new program provides districts with an opportunity to use the TSLFP funds as a recruiting tool to hire and retain teachers in shortage and critical need areas. The program provides from $3,000 to $6,500 per year for each qualifying recipient who receives the award. Award amounts are dependent on the shortage or critical need area filled and the district’s location.

According to NDDPI, each district superintendent or lead administrator received a log-in and password from the North Dakota University System (NDUS) necessary for the district to apply for the TSLFP. These emails were

Continued on page 4
sent out on Thursday, February 15, 2018. If your district has not received it, please check your spam folder, and contact Brenda Zastoupil at brenda.zastoupil@ndus.edu or (701) 328-2906.

Districts (rather than individual teachers) apply for the positions that will receive loan forgiveness and should complete the application found at https://www.nd.gov/dpi/SchoolStaff/SSI/LoanForgiveness/.

All applications submitted between now through April 15 will be first priority. NDDPI and NDUS will process this first round of applications all at once. After the first round of applications is processed, any change requests from districts and/or additional applications will be considered depending on availability of funding. More information on the program and application process is available at https://www.nd.gov/dpi/SchoolStaff/SSI/LoanForgiveness/ or by contacting Gail Schauer at gschauer@nd.gov or 701-328-2755.