

# bulletin



**NDSBA**  
NORTH DAKOTA SCHOOL  
BOARDS ASSOCIATION

APRIL 2021

*Excellence in North Dakota public education through local school board governance* ■ VOL XLVI ISSUE 4

## Burgum, Baesler announce Innovative Education Week, IgniteND



Gov. Doug Burgum and State Superintendent Kirsten Baesler recently

announced Innovative Education Week, June 7-11, 2021. The content-rich week of events kicks off with the fifth annual Governor's Summit on Innovative Education on June 7, featuring a keynote by *Code.org* CEO and co-founder Hadi Partovi.

This event is free and open to the public with limited in-person seating available as well as a livestream broadcast. Burgum will host the event and highlight the progress being made in North Dakota toward personalized learning, the role technology skills play in a global economy, and the opportunity to innovate amid the challenges of the COVID-19 pandemic.

IgniteND is a four-day series of workshops and speakers for educators

June 8-11 with innovative curriculum focused on computer science and cybersecurity. Educators are also able to earn continuing education credits. The event, co-sponsored by Bismarck State College, EduTech, and the Department of Public Instruction, will take place virtually and in person at BSC. Featured speakers include 2019 Teacher of the Year Kayla Dornfeld and renowned author and professor Dr. Adolph Brown. Complete agenda and registration information is available at <https://www.ignitend.com/>.

The 2021 #InnovativeND Awards will be presented at the Governor's Summit on Innovative Education, recognizing educators, schools, districts, and students who have made a difference in education in North Dakota. Nominations will be accepted through **May 3, 2021**, and may be submitted via the nomination form at <https://bit.ly/3sjRZqO>. Award categories include:

- **Frontline Innovation:** This award recognizes innovative approaches in the classroom.
  - **Collaborative Culture:** This award recognizes efforts that reach across subjects and classrooms.
  - **System Transformation:** This award recognizes innovations in the educational system that will have a fundamental impact on how students learn.
  - **Student Leadership:** This award recognizes students who are advancing innovative education through leadership inside and outside the classroom.
- More than 1,300 educators, administrators, school board members, legislators, parents, and other stakeholders registered to participate in last year's Summit on Innovative Education. Registration information is available at [2021innovativeedsummit.eventbrite.com](https://2021innovativeedsummit.eventbrite.com).

## Human Resource Collaborative Hot Topic Virtual Series



The Human Resource Collaborative for Local Government is hosting a six-session series of virtual presentations this summer on a range of Human Resource topics. The trainings will be held from June through August on the second and fourth Thursdays of the month from 10:00 – 11:15 a.m. CT. Each session will include a 45-minute presentation followed by a thirty-minute question-and-answer period. Topics will include:

- Open Meetings/Open Records – 6/10/21

- Emerging HR Issues and 2020/2021 Changes to the HR Reference Guide – 6/24/21
- LocalGovU Online Training – 7/8/21
- Public Employer Payroll and Recordkeeping in the Age of COVID – 7/22/21
- Race, Gender, and Disability Discrimination Challenges of 2021 – 8/12/21
- Keep It Legal Panel Discussion – 8/26/21

The cost to attend the entire series is \$50. Video recordings will be emailed to registrants after each training session. Registration for the virtual sessions will be available by May 1, 2021, at <http://www.hrndgov>. A

registration reminder will be emailed to districts in May. North Dakota School Business Manager Certification Program students can receive a half credit for attending or viewing the recording of each session. NDSBMCP students must complete the **Affiliate/Continuing Education Credit Form** found on the NDSBMCP website at <http://ndsbmcp.org/index.php/handbooks-and-forms/> and submit to [rebecca.duben@ndsba.org](mailto:rebecca.duben@ndsba.org) to receive credit. Please include the credit name, date of credit, and credit amount available on the form prior to signing and returning the NDSBMCP director. The director will verify the event staff section on the form.



# Legal Spotlight

## U.S. DOJ Clarifies that Bostock Decision Applies to Title IX

by Amy De Kok, NDSBA Legal Counsel

In June 2020, the U.S. Supreme Court issued its opinion in *Bostock v. Clayton County, Georgia*, confirming that the protections of Title VII of the Civil Rights Act of 1964 extend to individuals who are discriminated against in the workplace based on their sexual orientation or gender identity. The majority opinion authored by Trump-appointed Justice Gorsuch, stated that the statutory language is clear and that discrimination based on sex includes discrimination based on sexual orientation and transgender status. Therefore, an individual may not be fired merely for being gay or transgender. While the *Bostock* decision was undoubtedly historic, it left a few questions unanswered. For example, the decision did not address other potential issues such as sex-segregated bathrooms, locker rooms, and dress codes. It also did not address whether there could be

an exception based on the religious beliefs of an employer. Finally, the court did not address how its analysis in *Bostock* may impact anti-discrimination protections in other federal laws, including Title IX.

Despite the Court's apparent attempt to focus its ruling only on firing under Title VII, the Court in *Bostock* was clear in stating that "it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex." Title IX prohibits discrimination on the basis of sex in federally funded education programs. Like Title VII, Title IX and accompanying regulations do not define what the phrase "on the basis of sex" means, but since Title IX's language is closely modeled on Title VII's language, courts regularly look to case law around Title VII for how to define the scope of sex discrimination under Title IX. Even before the Court's decision in *Bostock*, the U.S. Courts of Appeals for the 4th, 6th, and 7th Circuits extended decisions that determined Title VII as prohibiting sexual orientation and gender identity discrimination to Title IX.

Shortly after taking office, President Biden issued Executive Order 13988, which sets out the Administration's policy that "[a]ll persons should receive equal treatment under the law, no matter their gender identity or sexual orientation." Citing the Supreme Court's holding in *Bostock* that the prohibition on discrimination "because of sex" under Title VII covers discrimination on the basis of gender identity and sexual orientation, the Executive Order

explains that *Bostock's* reasoning applies with equal force to other laws that prohibit sex discrimination "so long as the laws do not contain sufficient indications to the contrary." The Order then instructed federal agencies to implement the Court's ruling in *Bostock* and required a review of all policies, regulations, and other agency actions addressing discrimination on the basis of sex, including Title IX, to determine applicability of sexual orientation and gender identity discrimination. To this end, on March 26, 2021, the U.S. Department of Justice, Civil Rights Division (DOJ), issued a Memorandum confirming that, like Title VII, Title IX prohibits discrimination on the basis of general identity and sexual orientation. In doing so, the DOJ considered the text of Title IX, Supreme Court caselaw, and developing jurisprudence in this area; however, it "ultimately found nothing persuasive in the statutory text, legislative history, or caselaw to justify a departure from *Bostock's* textual analysis and the Supreme Court's longstanding directive to interpret Title IX's text broadly."

Shortly following the issuance of the DOJ's Memorandum, the Department of Education, Office of Civil Rights (OCR) announced that it will undertake a comprehensive review of its Title IX regulations as part of implementing President Biden's Executive Order. In a letter to students, educators, and other stakeholders, OCR outlined plans to solicit the public's input on the regulations, ultimately leading to possible revisions through a notice of

*Continued on page 3*

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## NDSBA Requesting Clinic Proposals

NDSBA is accepting proposals for 2021 NDSBA Annual Convention clinic sessions. The proposal submission form is included as an insert in the March *Bulletin* and can be found at [www.ndsba.org](http://www.ndsba.org) under QUICK CLICKS.

Consider sharing unique or successful things happening in your district or suggesting a speaker or topic you would like to see.

**Submissions are due by May 17, 2021.**

# DPI Launches COVID Funding Training Series

NDDPI recently announced that they are conducting a “COVID Funding Training Series,” which will highlight some of the key provisions within law. The first training will be an overview of the U.S. ED guidance on ESSER II & III funding. Training dates and topics are listed below:

- An Overview of the U.S. ED Guidance of ESSER Funding – 4/23,

- 11 a.m.
- Applying for ESSER II and III Funding – TBD
- Addressing the Learning Loss Requirement for ESSER Funding – 4/27, 11 a.m.
- Using ESSER Funding for Construction and/or Renovation – TBD
- Key Information for Claiming ESSER II and III Funding – TBD

- Understanding the Maintenance of Equity Provision with ESSER III – TBD
  - IDEA State Grant Funding in the ARP – TBD
  - Homeless Children and Youth Funding in the ARP – TBD
- Please contact Assistant Superintendent Laurie Matzke for more information at (701) 328-2284.

## Legal Spotlight

proposed rulemaking. To facilitate this, OCR plans to hold a public hearing to enable those who are interested to share their views through oral comments and written submissions.

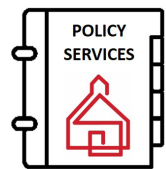
NDSBA will continue to watch for additional developments in this ongoing effort. We are also in the process of reviewing relevant template policies and regulations in order to determine

*Continued from page 2*  
whether any revisions are necessary at this time. In the meantime and until there is more clarity, it is recommended that districts consult with their legal counsel in situations implicating Title IX protections.

Please be advised that the information provided in this article is for informational purposes only and is not intended as legal advice.

## 6th Annual HR Collaborative Conference Rescheduled

The 6th Annual Human Resource Collaborative Conference for Local Government previously scheduled for June 2-3, 2021, has been rescheduled to April 20-21, 2022. The conference will be held in Bismarck at the Ramkota Hotel and Conference Center. Please mark your calendars for this event. More information and registration for the conference will be made available in 2022.



## Policy Updates and Resources

Policy Services members are reminded to check out the latest policy updates and resources in NDSBA *Policy*

*Ponderings*. The recent March edition includes various content to help ensure that districts have and are disseminating the necessary policies and notices. Available resources include: *Annual Notices Required by Federal Law 2021*, *Policies Required by State or Federal Law*, and *Policy Dissemination Guide*. The *Policy Dissemination Guide* indicates when law and/or NDSBA policy language requires districts to distribute the policy, regulation, or exhibit to

staff, students, and/or parents. This list may not be all inclusive if districts have added additional dissemination requirements into their policies. Districts are encouraged to review their policy templates and update the editable policy dissemination table when additional requirements have been included.

Members can access these and other available resources by logging in to the Policy Services website at <http://policy.ndsba.org/>, clicking the Policy Pondering tab, and selecting Policy News from the dropdown menu. If login assistance is needed, please contact the NDSBA office at 800-932-8791.



### Legislative Email Updates

Updates from the 2021 Legislative Session will be sent to NDSBA members weekly by email. If you have not been receiving emails from NDSBA, please call Julie at 800-932-8791 to ensure we have the correct email address on file.



## Business Manager Certification Program Accepting Applications

The North Dakota School Business Manager Certification Program (NDSBMCP) is now accepting applications for new students to begin courses later this summer. This certification program is a two-year, 61 credit professional development program geared toward new and long-serving business managers. Business managers are provided practical education and training to help them successfully perform their duties and meet statutory and regulatory responsibilities.

Courses are taught by superintendents, business managers, school district personnel, and state officials with expertise in specific areas. Course delivery is a mixture of face-to-face, virtual, and self-paced online. Instruction topics include: Introduction to School Finance, Open Meeting and Records, School Law for Business Managers, and School Elections.

The NDSBMCP application form can be accessed online at <http://ndsbmcp.org/index.php/handbooks-and-forms/>. Fifteen appli-

cants are needed to start a class so prompt registration is appreciated! Students are encouraged to submit the completed application by **July 1, 2021**. Even though courses are not scheduled until later this year, students may begin working on their affiliate credit requirements upon application approval. Prospective students can visit the NDSBMCP website at <http://ndsbmcp.org/> or contact [rebecca.duben@ndsba.org](mailto:rebecca.duben@ndsba.org) for more information on the program.



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### McClusky School District

Part-time superintendent with possible teaching

Contact: Laura Lieberman

Website: [www.mcclusky.k12.nd.us](http://www.mcclusky.k12.nd.us)

Phone: 701-363-2470

Email: [laura.lieberman@k12.nd.us](mailto:laura.lieberman@k12.nd.us)

Deadline: Open until filled

Position begins: July 1, 2021

### Solen School District

Contact: Justin Fryer

Website: [www.solen.k12.nd.us](http://www.solen.k12.nd.us)

Phone: 701-445-3331

Email: [justin.fryer@k12.nd.us](mailto:justin.fryer@k12.nd.us)

Deadline: April 19, 2021

Position Begins: July 1, 2021

### Wyndmere School District

Contact: Alexis Baxley

Phone: 1-800-932-8791

Email: [alexis.baxley@ndsba.org](mailto:alexis.baxley@ndsba.org)

Application: [www.ndsba.org](http://www.ndsba.org)

Deadline: April 21, 2021

Position Begins: July 1, 2021



### 2021 NDSBA Annual Convention

October 28-29, 2021

Ramkota Hotel, Bismarck

### Human Resource Collaborative Conference

April 20-21, 2022

Ramkota Hotel, Bismarck

### 2022 NDSBA Annual Convention

October 27-28, 2022

Ramkota Hotel, Bismarck



## BoardBook Premier

BoardBook Premier is available to North Dakota school districts,

political subdivisions, and businesses. BoardBook Premier is a paperless meeting and document storage program designed by school boards and is the new standard in board agenda preparation and decision making. Visit [www.ndsba.org](http://www.ndsba.org) for more information.



## NDSBA is on Twitter!

Follow us at

@[ndsba](https://twitter.com/ndsba) for event, policy, and other education-related updates.