

# bulletin



**NDSBA**  
NORTH DAKOTA SCHOOL  
BOARDS ASSOCIATION

DECEMBER 2021

*Excellence in North Dakota public education through local school board governance* ■ VOL XLVI ISSUE 12

## Negotiations Seminar 2022

NDSBA's 2022 Negotiations Seminar will be held on Friday, February 4, 2022. Three early-bird sessions will be held on Thursday, February 3. Sessions will be recorded and available for paid registrants to watch later. A detailed agenda and registration information will be available at [www.ndsba.org](http://www.ndsba.org) and emailed to business managers soon. Registration will open on January 4, 2022, at [www.ndsba.org](http://www.ndsba.org). Districts are encouraged to register early; registration fees will increase on January 26, 2022.

### NEGOTIATIONS SEMINAR

(\$160/\$185)

#### Negotiations Basics, Preparation & Strategy

Friday, February 4  
8:30 a.m.-10 a.m.

These sessions are primers geared for first-time negotiators or those looking for a refresher. Registration for this session is included in the full Negotiations Seminar fee.

#### Negotiations Seminar

Friday, February 4  
10:15 a.m. – 4:30 p.m.

Topics will include the dos and don'ts of a negotiated agreement, probationary teacher nonrenewal, an experienced negotiator panel, and employee and staff relations in divisive times.

### EARLY BIRD SESSIONS

#### Teacher Nonrenewal

Thursday, February 3 (\$110/\$135)  
9 a.m. – 11:30 a.m.

This session will walk participants through teacher nonrenewal procedures and touch on the discharge process. Participants will receive a copy of NDSBA's Nonrenewal, Resignation, and Discharge Handbook.

The presentation will include:

- Evaluation of licensed personnel;
- Nonrenewal procedures;
- Performance nonrenewals;
- First-year teacher nonrenewals;
- RIF nonrenewals; and
- Resignation and contract breach.

#### Investigating Allegations of Employee Misconduct

Thursday, February 3, (\$60/\$85)  
1 p.m. – 2:30 p.m.

This session will walk attendees through the complaint and investigation process and will discuss what

type of involvement is appropriate for board members. The presentation will include:

- Identifying the nature of the complaint;
- Determining if an investigation is warranted;
- Determining who should conduct the investigation;
- The investigation process;
- The investigation file; and
- After the investigation is complete.

*Continued on page 3*

*Happy Holidays!*



The North Dakota School Boards Association staff would like to wish you a happy holiday season. We would also like to congratulate **Kaitlyn Erickstad**, a sophomore at Starkweather School District. Her artwork will be featured on the front of NDSBA's 2021 holiday card. Kaitlyn is a student of Rebecca Kingsley. Congratulations, Kaitlyn, and thank you to all of the students who submitted artwork – they were all fantastic!



# Legal Spotlight

## School Involvement in Child Custody Matters

by Amy De Kok, NDSBA Legal Counsel

One of the most frequent questions I receive from our member districts relates to how to handle child custody matters involving students in their district. The issues that prompt these calls usually involve one of two things: (1) a request for school staff to testify at a custody hearing; or (2) there is a dispute between parents regarding compliance with the parenting plan and the school has been put in the middle. This article will address recommended practices with respect to both issues.

As indicated, it is quite common for school staff to receive a request to testify at a child custody hearing involving a student in their district. The request usually comes by way of a subpoena, and teachers and school counselors are most often the targets of these subpoenas. Typically, such is issued by the attorney of one of the parents. The North Dakota Rules of Civil

Procedure require that subpoenas be properly served on the subject of the subpoena. If a staff member receives a subpoena to appear at a hearing or deposition, or to provide documents relating to a student, the staff member should immediately contact administration for direction. It is recommended that administration seek assistance from district legal counsel to ensure the subpoena was properly served and to receive advice on how to respond. A properly served subpoena is generally an exception to the Family Educational Rights to Privacy Act's (FERPA) parental consent requirement. Without proper service, school employees would likely be restricted from providing personally identifiable information (PII) of the student in response to the subpoena.

If the subpoena is demanding an appearance at a deposition or hearing, it is also recommended that administration, through counsel, contact the attorney of the party who issued the subpoena to discuss the nature of the testimony they expect to receive from the school employee.

This will allow the school employee to be properly prepared for the hearing. I often recommend that school employees refrain from "picking sides" in a custody matter, unless there is good cause to do so. Remember – regardless of the end result of the custody matter, the school will have to interact with both parents going forward. Maintaining a good relationship with both parents is important for the success of the

student.

It is also quite common for disputes to arise between divorced or separated parents of a student that spill over into the school environment. School officials must comply with, and at a minimum not assist others in the violation of, a court order regarding child custody and visitation. School officials should make it clear to the parents that it is their responsibility to advise the district of any custody arrangements or requirements. If a dispute arises between the parents, the school should place the responsibility back on the parents to resolve the dispute and to notify the school of the resolution. If that does not work, the school should seek assistance from district legal counsel.

Please feel free to contact NDSBA Legal Counsel for additional information on this topic.

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#### EDITOR

Alexis Baxley

#### PUBLISHER

North Dakota School Boards Association  
1224 West Owens Avenue  
Bismarck, ND 58501

**TELEPHONE** 1-800-932-8791

**LOCAL** (701)255-4127

**FAX** (701)258-7992

**WEBSITE** [www.ndsba.org](http://www.ndsba.org)

**TWITTER** @ndschoollboards

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## Introducing:



General legal counsel and advice

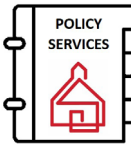
Contract review

Negotiated Agreement review

Customized policy drafting

Customized training

Please contact NDSBA for more information regarding NDSBA Legal Direct.



## Policy Updates and Resources

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

in *Policy Ponderings*. These updates and resources can be accessed by logging in to the Policy Services website at <http://policy.ndsba.org/>, clicking the *Policy Ponderings* tab, and selecting Policy News from the dropdown menu. Contact the NDSBA office if login assistance is needed.

The October and November editions of *Policy Ponderings* highlight changes to 26 policies, regulations, and exhibits. Some of the revised policies include: ABBB, Community Use of District Property (recommended); FDG, Dropouts (recommended); FFK, Suspension and Expulsion (required); and FGA, Student Education Records (required). Most templates had minor changes; however, there were some policies that were due for a review but required no modifications. As a reminder, when a board evaluates

policies or board regulations and finds that no changes are needed, Policy Services recommends updating the adoption date (MM/DD/YR) at the bottom of the policy and having the board reaffirm the policy with one reading. A sample motion to reaffirm a policy can be found in our Policy Services resource: *Sample Motions for Policy Adoption*.

Members may only view the template updates in pdf form within *Policy Ponderings*. Districts that have purchased our Required or Total Template Manuals also have the option to download and print the templates (depending on their membership level) in Word format. Template Manual members can access their online manual by clicking on the Policy Templates tab. All other districts must request the policy template by completing the Policy Request Form on the Policy Services website under the Services tab or contacting the NDSBA office at 1-800-932-8791.

## School District Long-Term Planning Process

Between January 1 and June 13 of every even-numbered year, the board of each school district is required to invite the public to participate in a planning process that addresses the effects of demographics on the district for the next three and five years. The planning process must specifically address potential effects on:

- a. Academic and extracurricular programs;
- b. Instructional and administrative staffing;
- c. Facility needs and utilization; and
- d. District tax levies.

Holding an open public forum is one way to meet this requirement. It is recommended that the district provides frequent and ample notice of the forum to its patrons. The notice of the planning meeting, at a minimum, should be published in the district's official newspaper. Open

meeting laws will need to be followed if a quorum of board members is present at the open public forum.

School boards are also required to prepare a report, publish a notice in the official district newspaper indicating that the report is available, and make the report available upon request at the conclusion of the planning process. The report does not need to be submitted to the Department of Public Instruction; however, districts will need to acknowledge compliance with this requirement in STARS.

NDSBA has created a Three and Five-Year Plan template to assist districts in compliance with this obligation. The template can be found on the NDSBA website under Resources at <http://ndsba.org/index.php/resources/> or can be requested by calling our office at 1-800-932-8791.

## ■ Negotiations Seminar

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### Principal and Non-superintendent Administrator Contracts

Thursday, February 3, (\$60/\$85)  
2:45 p.m. – 4:15 p.m.

This session will cover best practices regarding principal and non-superintendent administrator contracts, including common provisions and considerations participants will discuss:

- Negotiating contracts;
- Evaluations and improvement plans;
- Renewal of non-superintendent administrator contracts; and
- Nonrenewal and discharge of non-superintendent administrators



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Facebook!**



Follow us at @ndschooboards (Twitter) and North Dakota School Boards Association (Facebook) for event, policy and other education-related updates.



mark  
your calendar

### 2022 Negotiations Seminar

February 3-4, 2022  
BSC National Energy Center of Excellence, Bismarck

### 2022 NSBA Annual Conference & Exposition

April 2-4, 2022  
San Diego, CA

### Human Resource Collaborative Conference

April 20-21, 2022  
Ramkota Hotel, Bismarck

### 2022 NDSBA Annual Convention

October 27-28, 2022  
Ramkota Hotel, Bismarck



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**Pingree-Buchanan School District**

Contact: Kylee Ingebretson, Business Manager (contact to apply)  
Phone: 701-252-5563  
Email: [kylee.ingebretson@k12.nd.us](mailto:kylee.ingebretson@k12.nd.us)  
Deadline: January 14, 2022 (or until filled)  
Position Begins: July 1, 2022

**Mandaree School District**

Contact: Alexis Baxley  
Phone: 701-250-4127  
Email: [alexis.baxley@ndsba.org](mailto:alexis.baxley@ndsba.org)  
Application: [www.ndsba.org](http://www.ndsba.org)  
Deadline: January 31, 2022  
Position Begins: July 1, 2022

**Mott-Regent School District**

Contact: Alexis Baxley  
Phone: 701-255-4127  
Email: [alexis.baxley@ndsba.org](mailto:alexis.baxley@ndsba.org)  
Application: [www.ndsba.org](http://www.ndsba.org)  
Deadline: February 7, 2022  
Position Begins: July 1, 2022

**Rolette School District**

Contact: Dr. Paul Stremick, DLS  
Phone: 701-520-5963  
Email: [Paul.Stremick@outlook.com](mailto:Paul.Stremick@outlook.com)  
Website: [www.dakotaleadershipsolutions.com](http://www.dakotaleadershipsolutions.com)  
Deadline: February 18, 2022  
Position Begins: July 1, 2022

**Wahpeton School District**

Contact: Nancy Bollingberg or Jack Maus, DLS  
Email: [nancy.bollingberg@gmail.com](mailto:nancy.bollingberg@gmail.com)  
OR [jackmaus56@gmail.com](mailto:jackmaus56@gmail.com)  
Website: [www.dakotaleadershipsolutions.com](http://www.dakotaleadershipsolutions.com)  
Deadline: February 4, 2022  
Position Begins: July 1, 2022

**Washburn School District**

Contact: Dr. Brian Duchscherer, DLS  
Phone: 701-321-5719  
Email: [dduchscherer.brian@gmail.com](mailto:dduchscherer.brian@gmail.com)  
Website: [www.dakotaleadershipsolutions.com](http://www.dakotaleadershipsolutions.com)  
Deadline: February 4, 2022  
Position Begins: July 1, 2022