

# bulletin



JULY 2024

Excellence in North Dakota public education through local school board governance

VOL XLIX ISSUE 7

## NDASRO 2024 Summer School Safety Conference

The North Dakota Association of School Resource Officers (NDASRO) is hosting the 2024 Summer School Safety Conference July 30 - August 1 in Minot, N.D., at the Clarion Hotel. NDASRO has scheduled a great team of presenters, who will cover several relevant and timely school safety topics, which include:

- Identifying and Documenting Street Gangs
- Trafficking, Exploitation, and Enticement: Crimes Hidden in Plain Sight
- Child Advocacy Centers and Minimal Facts Interviewing
- The "I Love You Guys" Foundation School Crisis Response Protocols and Recovery

The conference registration fee is only \$25. For more information, visit the NDASRO conference registration link at [www.ndasro.org/24-summer-safety-conference](http://www.ndasro.org/24-summer-safety-conference).

A graduate K-12 professional development credit (one credit) is available through Valley City State University Extended Learning for \$75.

- **The class number is 11140 and the course code is CP24.**
- Participants can visit [www.vcsu.edu/academics/continuing-education](http://www.vcsu.edu/academics/continuing-education) to register.

For more information, contact Chris Potter at [CPOTTER@west-fargo.k12.nd.us](mailto:CPOTTER@west-fargo.k12.nd.us).

## Welcome!

NDSBA would like to welcome all newly elected school board members who were seated this month. Your board service will be challenging but rewarding. NDSBA is here to serve you as you serve the learners of your district. Be on the lookout for your new member packet and mark your calendars for the New Member Seminar on October 24!

## NDSBA Seeking Committee Members

NDSBA is seeking board members to serve on various committees prior to the 2024 Annual Convention. These committees are an important part of setting the direction for NDSBA and ensuring we serve our members accordingly. If you are interested in serving on a committee, please fill out the form at <https://forms.gle/UaLaHb7e7HKcDmLv7>. Board members will be appointed to the following committees in the coming months:

### Government Affairs Committee

The Government Affairs Committee meets once in late August via conference call to discuss and approve any resolutions

submitted to NDSBA. Approved resolutions are then submitted to the Delegate Assembly at the October convention for final consideration.

### Nominating Committee

Members of the Nominating Committee meet once via conference call prior to the October convention. The committee reviews all candidate applications for positions on the NDSBA Board of Directors and approves which candidates will be placed on the ballot for election at the October convention.

### Credentials Committee

Credentials Committee members assist NDSBA staff in seating delegates at the

## NW and SE Director Openings



The Northwest and Southeast Director seats on the NDSBA Board of Directors will be open during the 2024 Annual Convention election in October. Both successful candidates will be eligible for two, two-year terms. If you are interested in being a candidate for one of the positions, you must (1) be from the northwest or southeast regions and (2) fill out a corresponding regional candidate information form that can be obtained from the NDSBA office. The form must be received by the NDSBA office by Friday, August 16. The nominating committee will review applications and select candidates to be placed on the ballot for the election held during the annual convention on October 24-25 in Bismarck. Candidates slated for election by the nominating committee will have time to make brief comments at the first business session on Thursday afternoon, October 24. Contact the NDSBA office for more information.

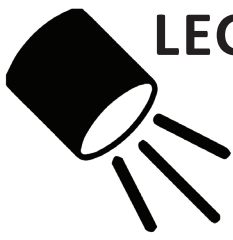
Delegate Assembly during the October convention.

### Ballot Counting Committee

Members of the Ballot Counting Committee tally votes and certify election results for board of directors positions at the October convention. They are also available to tally ballot votes during the Delegate Assembly, if necessary.

### Legislative Committee

The Legislative Committee meets weekly via conference call during the legislative session. Members advise NDSBA staff on proposed legislation, help determine legislative strategy, and may occasionally be asked to testify in front of the legislature.



# LEGAL SPOTLIGHT

## Social Media Use: Where's the Line Between Personal and Professional Opinions?

By Lexie Bergstrom, NDSBA Staff Attorney

In an ever-growing technological world, it is becoming increasingly more common for school districts to rely on social media to communicate quickly and effectively with the public. School districts utilize social media platforms such as Facebook and X (formerly known as Twitter) to keep parents and students up to date on school closures, sporting events, school activities, and other newsworthy information. Many school board members and school district employees also use personal social media accounts to connect with family and friends and to speak in their private capacities on a wide range of issues. But when can a board member's activity on his or her personal social media page be attributed to his or her school district? And when can districts regulate the use of social media by employees? With the rise of social media and the expediency it allows for communication of personal and public matters, the lines can get blurred.

Recently, the United States Supreme Court unanimously provided critical guidance to clarify the line between private and government activities conducted on social media. In *Lindke v. Freed*, James Freed, a city manager, blocked Kevin Lindke from Freed's personal Facebook page and removed Lindke's comments criticizing Freed's response to the COVID-19 pandemic. Freed's Facebook page was originally a personal profile intended to connect with family and friends, but he converted it to a "page" which has unlimited "followers" instead of friends and is public so that anyone may "follow" it. Freed designated the page category as "public figure" but posted both personal and professional updates to the page.



The Supreme Court held that posting, deleting comments, and blocking viewers or commenters – even on a government official's personal social media page – can be considered government action when the official (1) has authority to speak on behalf of the government entity about the subject of the post and (2) purports to exercise that authority through his or her social media activities. For example, a school board president may have the authority to speak on behalf of a government entity when announcing a district-wide snow day, even if he or she posts that information from a personal social media account.

While the board president can reduce the appearance of speaking on behalf of the district by posting a disclaimer that a page or post represents only private opinions, the Supreme Court warned a disclaimer cannot categorically shield a clearly official statement from qualifying as state action. So, while disclaimers might be good practice, they should not be seen as a universal solution.

*Lindke* represents a large first step in adapting the state action doctrine to the

online world of social media, and the Supreme Court emphasized each case must be handled under a fact-specific basis that considers the authority of the government official, the type of action taken, and the reach that action has on the relevant platform.

So, what can school districts do to avoid any confusion between an employee's personal social media and the school district's social media page? For starters, districts can control their own social media accounts, e.g., decide who is allowed to administer the accounts and speak on the district's behalf, and choose the forum set up for those accounts. Districts can also prohibit unlawful activity and maintain proper use on their social media accounts.

Further, almost everything on a school district's Facebook page is considered open record – posts, comments, pictures, information, videos, etc. Even private messages can be considered open record. Therefore, establishing guidelines regarding their social media pages helps avoid open record requests into personal social media. It may also be beneficial for districts to preserve social media records, appoint an administrator to oversee preservation of social media records, know the preservation limits of the social media account/site the district uses, and/or consider investing in archiving software.

Employees have the right under the First Amendment, in certain circumstances, to speak on matters of public concern using their own personal social media accounts. However, the district shall regulate the use of social media by employees, including employees' personal use of social media, when such use:

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1. Interferes or disrupts the educational environment of the school district.
2. Harasses students, coworkers, or members of the community.
3. Creates a hostile work environment.
4. Poses a safety threat to students, coworkers, or school operations.
5. Breaches confidentiality, including but not limited to, posting data, documents, and photographs.
6. Implies that the employee is acting as an agent of the school district by referencing school or district images, logos, official names, or materials.
7. Violates state or federal laws, district policy or regulations, or, if applicable, the negotiated agreement.

There is sometimes a fine line between what someone posts in a private capacity versus in a capacity speaking on behalf of, or in representation of, their employment.

Therefore, district employees and board members are expected to exercise good judgement and serve as positive ambassadors for the district and appropriate role models for students while using social media. They must always maintain professionalism in their interactions with students and the community.

NDSBA has template policy DEBH, Employee Use of Social Media, which establishes specific district and employee responsibilities regarding social media use. NDSBA has also developed board regulation BA-B2, Board Member Internet and Social Media Use, which outlines rules and procedures relating to a board member commenting on school district business online, including social media sites. Please contact NDSBA for further information.



**2024-25 NDSBA DUES STATEMENTS** have been sent to district business managers. School districts in North Dakota have long benefited from the support, training, information, and legislative advocacy provided by the NDSBA. When public school boards join together, they make a difference in their own effectiveness and overall support for public education.

**NDSBA INFORMATION FORMS** will be sent to district business managers soon. The information collected by the forms is vital to ensure: (1) all **NEW** board members, superintendents, and business managers receive our mailings as soon as they are a member of the board or district, (2) we have the **correct** board president, board members, superintendent, and business manager, (3) mailing addresses, phone numbers, and email addresses for current board members and staff are up to date, and (4) we have the correct number of years board members have served so we may utilize the information for our awards program and association educational components.

**POLICY SERVICES RENEWAL INVOICES**, along with an explanation of the different types of services available, were emailed to each district's business manager. Please indicate if the policy contact needs to be changed or information needs to be added to your district's information form also included in the mailing. Your Policy Services membership will ensure you have the latest policy updates.

**Keep your school district up to date by submitting payments promptly.**

## Convention Reminders

### NDSBA Standing Resolutions

Any member board may submit a resolution for consideration using the format found on the NDSBA Annual Convention webpage by **August 23**. Please view current Standing Resolutions before submitting.

Resolutions are automatically dropped after four years unless brought to the Delegate Assembly for reconsideration. Both Standing Resolutions and Beliefs and Policies are on the NDSBA website at [www.ndsba.org/wp/beliefs-and-policies/](http://www.ndsba.org/wp/beliefs-and-policies/).

Submit proposed resolutions by email to Taylor Lassiter at [taylor.lassiter@ndsba.org](mailto:taylor.lassiter@ndsba.org).



### 2024 NDSBA Board Member Service Awards

A copy of a qualifying board member's points form must be received in the NDSBA office by Friday, September 20, for board members to be recognized at the 2024 Annual Convention. Forms are available under "Resources" on the NDSBA website. Also available on the webpage is a spreadsheet that may be useful to record board members' yearly activities.

When 100 or 200 points have accumulated, the form should be submitted to NDSBA, 1224 West Owens Avenue, Bismarck, ND 58501 or by email to Taylor Lassiter at [taylor.lassiter@ndsba.org](mailto:taylor.lassiter@ndsba.org).

## Registration Still Open for NDSBA and NDDPI New Board Member Bootcamp

Registration for the seventh annual North Dakota School Boards Association and North Dakota Department of Public Instruction co-hosted Board Member Bootcamp is still open. The one-day, virtual school board member training will take place on Thursday, August 1, over Zoom. Registration for the FREE training can be found at <https://forms.gle/oTftX4N8ueRdFUXG9>.

**Please note: this training does not meet the new board member training required by law.**



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# MARK your calendar

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## **2024 North Dakota Indian Education Summit**

July 18-19

ND State Capitol, Bismarck

## **2025 NDSBA Negotiations Seminar**

February 6-7, 2025

BSC NECE, Bismarck

## **2024 NDDPI & NDSBA Board Member Bootcamp**

August 1

Zoom

## **2025 NDSBA Annual Convention**

October 9-10, 2025

Bismarck Event Center, Bismarck

## **2024 NDSBA Annual Convention**

October 24-25

Bismarck Event Center, Bismarck



**NDSBA**

**NORTH DAKOTA SCHOOL  
BOARDS ASSOCIATION**