



bulletin



JULY 2020

Excellence in North Dakota public education through local school board governance ■ VOL XLV ISSUE 7

Burgum, Baesler Announce Updated K-12 Smart Restart Plan for Fall 2020

On Tuesday, July 14, Governor Doug Burgum and State Superintendent Kirsten Baesler held a press conference to announce updated guidance for reopening K-12 schools in the fall. The full press conference can be viewed at <https://www.facebook.com/watch/?v=731940677379301>. The updated guidance was created in collaboration with education stakeholders, including North Dakota School Boards Association, and relies largely upon local control.

North Dakota school districts have been given the ability to decide what is best for their students and staff based on the unique conditions present in their district. However, prior to reopening for in-person instruction, each district must create a Health and Safety Plan to serve as the local expectations for the phased approach to in-person instruction. In addition to including considerations for a district's high-risk students and faculty, the Health and Safety Plan **MUST:**

- **Be created in consultation with local health professionals, faculty, staff, parents and students.** Many districts have already created task forces, held public forums, distributed student and parent surveys, and reached out to their local public health unit. If your district has not yet taken steps towards communicating with these groups, we encourage you to begin immediately.

- **Be approved by each school district's school board** in consultation with local public health units. This should be done by board motion and recorded in meeting minutes. The state



ND State Superintendent Kirsten Baesler

is currently working with local public health units to ensure they have the resources necessary to assist school districts.

- **Be published on the school or district's publicly available website** prior to the reopening of schools and providing services to students.

- Additionally, any district that is required to conduct tribal consultations under the Every Student Succeeds Act **must also consult with tribal leadership.**

The K-12 Smart Restart Guidance has adopted the color-coded guidance of the ND Smart Restart Plan. This plan categorizes reopening into five phases: red, orange, yellow, green, and blue. The colors signal risk level and how restrictions might ease or increase on a statewide and county-by-county basis. Districts should use this phased approach system as a part of their

Health and Safety Plan and be ready to consult with their local public health unit and adjust as conditions change. During red and orange phases, schools should remain closed for in-person instruction. Distance learning, however, **MUST** continue. The yellow, green, and blue phases allow for some level of in-person instruction as long as the district's Health and Safety Plan has been approved and published.

Each district must also have a school board approved Distance Learning Plan prior to re-opening.

This plan can be based on your original plan from this spring but **should include new information and improvements.** Because distance learning was implemented so quickly this spring, things like grades and attendance may not have been addressed while we all adjusted to a new normal. There is a clear expectation from the state that updated plans address these items. Failure to do so could jeopardize a district's state funding. **Your revised Distance Learning Plan must also be published on your school's website** prior to reopening. Just like your Health and Safety Plan, the Distance Learning Plan should be approved by board motion and recorded in meeting minutes.

Full text of the K-12 Smart Restart Fall 2020 guidance, further explanation of the color approach, and the North Dakota Smart Restart Plan are available at nd.gov and on NDSBA's COVID-19 Resources page. It is important to remember that given the dynamic

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Welcome!

NDSBA would like to welcome all of the 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 children of your district, and we look forward to meeting you at the New Member Seminar!

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Legal Spotlight

Recent U.S. Supreme Court Rulings and Their Impact on Schools

by Amy De Kok, NDSBA Legal Counsel

The U.S. Supreme Court, which is now more than halfway through its 2019 term, recently issued a flood of decisions in several high-profile cases. The subject matter at issue in a few of these cases directly impact K-12 schools. This article provides a brief summary of two of those key decisions.

The Supreme Court issued a ruling in *Espinoza v. Montana Dep't of Revenue* that is likely to affect state constitutional limits on public funding of religious educational institutions. In *Espinoza*, the Court was asked to decide whether the Montana Supreme Court's decision to strike down the state's tax credit scholarship program violated the Religion Clauses or Equal Protection Clause of the U.S. Constitution. The Montana statute at issue offered tax credits for donations to private-school scholarship funds. The Montana Department of Revenue barred religious schools from receiving scholarship money, based on Montana Constitution's "no-aid" provision barring government aid to sectarian schools." Mothers of

students at a Montana Christian school brought suit in Montana state court, seeking scholarship eligibility for their children. The Montana Supreme Court rejected their claims. It held that the statute, properly construed, did not allow the Department of Revenue to bar aid to religious schools — but that this violated the state constitution's no-aid provision, and so the entire statutory scholarship program was invalid.

The U.S. Supreme Court reversed the decision of the Montana Supreme Court by a 5-4 vote. The Court held that Montana's no-aid provision "bars all aid to a religious school simply because of what it is, putting the school to a choice between being religious or receiving government benefits," and so is subject to "the strictest scrutiny" under the Free Exercise Clause. The Court further held that "achieving greater separation of church and state than is already ensured under the Establishment Clause" is not a compelling state interest, and the no-aid provision does not advance Montana's interest in focusing financial support on public education, because it cuts off funding only to religious schools while allowing funding for other non-public schools.

Many believe that the court's ruling will have an immediate impact on policymakers nationwide in that they may now have the freedom to enact school choice programs and use public funds to do so. Indeed, during the most recent legislative session, the North Dakota Legislature considered legislation that proposed giving a tax credit to parents whose children receive nonpublic school or home education. That legislation failed to pass during session, but it is expected that similar efforts to provide public financial support for school choice will be made during the next legislative session.

In a historic decision issued just last month, the U.S. Supreme Court ruled that Title VII of the Civil Rights Act of 1964 protects gay, lesbian, and transgender employees from discrimination in the workplace based on sex. The ruling was 6-3, with Justice Neil Gorsuch, President Trump's first appointee to the court, writing the

majority opinion. The opinion was joined by Chief Justice John Roberts and the court's four liberal justices.

"Today," Gorsuch said, "we must decide whether an employer can fire someone simply for being homosexual or transgender. The answer is clear." He found such discrimination is barred by the language in the 1964 law that bans discrimination in employment based on race, religion, national origin or sex. Gorsuch acknowledged that Congress in 1964 likely did not have the LGBTQ community in mind when it banned discrimination based on sex. But he said the words of the statute are clear. He pointed to several major court rulings since the law's passage that have interpreted the term "sex" expansively— for instance, to bar discrimination against women because they have children and to ban sexual harassment against both women and men. The majority opinion did include some potential caveats. For example, some employers might have valid religious objections to hiring gay or transgender employees. School districts should review the policies and regulations relating to workplace discrimination in light of the recent ruling to confirm compliance. NDSBA is in the process of reviewing our template anti-discrimination policies and will provide appropriate updates to our members in the near future.

Please feel free to contact NDSBA for further information regarding the impact of the above-referenced rulings on public education in North Dakota.

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NDSBA Resolutions Deadline

Resolutions must be received in the NDSBA office **no later than 4:00 p.m. on Monday, August 17**. NDSBA's current resolutions and the format to submit proposed resolutions can be found on the NDSBA website www.ndsba.org under LEGISLATIVE ADVOCACY – STANDING RESOLUTIONS. These resolutions shape NDSBA's advocacy strategy.

NDSBA Seeking Committee Members

NDSBA is seeking board members to serve on various committees both prior and during our Annual Convention and the 2021 Legislative Session. These committees are an important part of setting the direction for NDSBA and ensuring we are able to serve our members accordingly. If you are interested in serving on a committee, please fill out the form at <https://forms.gle/PZHEfM-MTDLQwYhJy7>. 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 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 Delegate Assembly during the October convention.

Ballot Counting Committee

Members of the Ballot Counting Committee tally votes and certify election results for board of director 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.

Human Resource Collaborative Updates

The Human Resource Collaborative is very excited to announce that the revised HR Reference Guide for Local Government has had a comprehensive review



and is available online at <http://www.hrndgov.org/>. There will be a webinar to review the major changes in the guide later this summer. More information on the webinar will be available on the HR Collaborative website.

The 6th Human Resource Conference for Local Government that was originally scheduled for April 2020 has been rescheduled for June 2 and 3, 2021, at the Ramkota Hotel and Conference Center in Bismarck. The plan is to retain previously planned presenters and add new topics as they emerge. Registrants have been sent an email regarding registration options.

In place of this year's conference, the HR Collaborative is organizing a series

of webinars over the next six months on a range of HR Topics. The first webinar was held on April 17 and covered the federal Families First Coronavirus

Response Act. This session offered key information on the Emergency Sick Leave and Expanded Family Medical Leave provisions in the bill. A recording of this webinar can be found on the HR Collaborative website at <http://www.hrndgov.org/covid/>.

As local governments face many new challenges and opportunities, human resource management is often at the center of discussion. The HR Collaborative is here to help you and will provide resources as they become available. To receive regular HR updates and notices of future webinars, register on the HR Collaborative website under "Join Now." Thank you all for helping to make ND healthy and strong.



NDSBMCP New Member Training Held Virtually in July 2020

The Business Manager Certification Program new member training will be held via Zoom on July 23 and 27. This training is available to both current and graduate students. Courses to be taught include:

Business Manager Roles and Responsibilities, Federal Funding and Reporting Systems, Introduction to School Finance, Introduction to School Operations, and State Funding and Reporting Systems. Registration and class information can be found on the NDSBMP website under the NEWS tab at www.ndsbmcp.org. Contact NDSBA at 1-800-932-8791 if you have questions.

ND Smart Restart Plan

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nature of the COVID-19 pandemic, the guidance may evolve as we learn more. School districts and school boards should be prepared to rapidly adjust their delivery of instruction throughout the year.

North Dakota has long been a state that values local control. We are grateful that this guidance will allow each district and its patrons to determine what is best and most practical for them. As school board members, you will play a vital role in this determination. The past four months have been unprecedented and your leadership more important than ever. We must use this opportunity to dig in, ask the hard questions, and demonstrate good governance. Collaboration, compassion, and communication will be essential to your success and, most importantly, your students' success and well-being.

Notice: NDSBA Southeast Director Opening

NDSBA is seeking candidates to fill the Southeast Director position on our board. We have mailed and emailed application forms to all school board members in the southeast region (Barnes, Cass, Dickey, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, and Stutsman Counties) for the election to be held at our Annual Convention on October 29-30.

NDSBA board members are expected to attend three regularly-scheduled board meetings per year, represent school boards within their region, and assist in various capacities at NDSBA events.



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NDSBA Annual Convention Update

At the time of printing, NDSBA still plans to host an in-person Annual Convention on October 29-30, 2020. We are currently modifying the event format to allow for social distancing and working with the venue to ensure we can provide as clean and safe of

an event as possible. We will continue to monitor the level of COVID-19 cases and North Dakota Department of Health recommendations.



Lone Tree School District

Elementary Principal w/ Superintendent Duties - part time

Contact: Janine Olson

Phone: 701-872-3674 or 701-290-8385

Email: janine.olson@k12.nd.us

Application: email or send to PO Box 170, Golva ND 58632

Deadline: Open until filled

Position Begins: July 1, 2020



COVID-19 Resources

A COVID-19 Resources page with the latest information

and guidance can be found on the NDSBA homepage under Quick Clicks. It can be accessed at <http://www.ndsba.org/>. Resources include remote meetings guidance, elections guidance, and more.



mark your calendar

Board Member Training

Hosted by NDDPI and NDSBA

July 22, 2020

State Capitol, Bismarck

ND Rural School Summit

Hosted by NDDPI and NDSOS

October 28, 2020

State Capitol, Bismarck

2020 NDSBA Annual Convention

October 29-30, 2020

Ramkota Hotel, Bismarck

2021 NDSBA Negotiations Seminar

February 4-5, 2021

National Energy Center of Excellence, Bismarck

2021 NDSBA Annual Convention

October 28-29, 2021

Ramkota Hotel, Bismarck