

# bulletin



NOVEMBER 2024

*Excellence in North Dakota public education through local school board governance* VOL XLIX ISSUE 11

## Bismarck's Kendall Bergrud named 2025 ND Teacher of the Year



In late September, North Dakota State School Superintendent Kirsten Baesler and Governor Doug Burgum announced Kendall Bergrud, a mathematics teacher at Wachter Middle School in Bismarck, as North Dakota's Teacher of the Year for 2025. It is the second straight year a Wachter Middle School educator has been awarded North Dakota's top teaching honor. In January, Bergrud will succeed Sheila Peterson, a Wachter physical education and athletics teacher, as Teacher of the Year.

"Every educator in North Dakota deserves this honor, as I am not above the rest of you, as I know how hard each and every educator works across this state," Bergrud said as he accepted the award. "As educators, most of us were called to this work because of the drive and dedication we have in helping students and seeing them succeed."

Bergrud began his teaching career in 2013 at Lincoln Elementary School in the Bismarck Public School District. He taught fifth- and sixth-grade mathematics. He moved to Wachter in 2022, teaching math in the sixth, seventh, and eighth grades and working as part of the school's leadership team, a position he also held at Lincoln. Bergrud has been a principal intern at Bismarck's Myhre Elementary and Horizon Middle School, and coached volleyball and basketball at Wachter.

"To his colleagues, his students, and the people who know him best, Kendall Bergrud's dedication, skill, and passion for teaching is nothing short of extraordinary," Baesler said. "He has a remarkable ability to forge meaningful relationships and make connections with his students. Mr. Bergrud teaches students how to believe in themselves, how to overcome challenges, and how to pursue their dreams. He's a mentor and guide, and he supports and believes in the potential of every student."

Baesler and Burgum made the announcement in the state Capitol's Memorial Hall, at a ceremony held to celebrate Bergrud and the three other Teacher of the Year finalists: Macie Harris-Nelson, a music teacher at Kenmare Public Schools; Ashley Nudell, a family and consumer science teacher at Lisbon High School; and Kayla Tatro, an English, math, science, music, and technology teacher at Roosevelt Elementary School in Carson.

At the ceremony, Bergrud shared a message for North Dakota students. "To our students, know that your potential is limitless," he said. "Embrace challenges, seek knowledge, and never stop dreaming. Here's to many more moments of learning and growing for ourselves and our students."

Congratulations Mr. Bergrud, the 2025 TOY finalists, and to each of their school districts!

## Save the Date: Local Government Capitol Connection Event

On February 18-19, 2025, the Local Government Capitol Connection event will be co-hosted by the North Dakota Association of Counties, North Dakota League of Cities, North Dakota Recreation and Park Association, North Dakota School Boards Association, and North Dakota Township Officers Association at the Bismarck Event Center and the Capitol. This event will provide political subdivision members the opportunity to learn about the legislative process, the latest legislative developments, network with other elected officials, and meet with legislators.

The complete event program, registration, and hotel information will be available in early to mid November. The Local Government Capitol Connection will be a valuable event for political subdivision members and a great opportunity to learn, network, and advocate for your community.

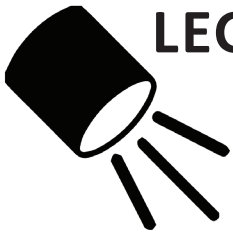
For more information, please reach out to the NDSBA office.

*We hope to see you there!*



### DETAILS TO NOTE:

- Cost: \$60 per person
- Location: Bismarck Event Center | Capitol
- Dates: February 18-19, 2025



# LEGAL SPOTLIGHT

## BIDDING REQUIREMENTS for School Boards



By Lexie Bergstrom, NDSBA Staff Attorney

School board members and their representatives frequently reach out to NDSBA seeking clarity on a crucial question: When are public schools required to engage in competitive bidding under North Dakota law? Generally, North Dakota law requires state agencies and political subdivisions of the state of North Dakota to provide notice, receive sealed bids, and publicly open bids before the entity may expend public funds.

The primary public policy reasons behind this are somewhat obvious. First, as stewards of public funds, we want our public entities to get the best price for goods and services provided by the most responsible vendors. In addition, an open and fair process helps ensure our public funds are not being used to collude or improperly favor certain individuals and entities over others. In other words, everyone has a fair opportunity to provide goods and services to public entities. This article provides an overview of the various bidding requirements applicable to public school boards in North Dakota, as well as the limits and exceptions to these requirements.

The primary section of the North Dakota Century Code (NDCC) addressing bidding requirements for boards of public school districts is NDCC § 15.1-09-34. NDCC § 15.1-09-34 provides the board of a school district may not enter a contract involving the expenditure of an aggregate amount greater than \$50,000 unless the school

board has given 10 days notice by publication in the official newspaper of the district, received sealed bids, and accepted the bid of the lowest responsible bidder. The use of the term “contract” does not require a written contract for the bidding requirements to apply. Rather, any agreement, whether oral or written, that involves the expenditure of \$50,000 or more, will require the board to comply with the requirements of section 15.1-09-34.

Boards need to be diligent in making sure they are adhering to the statutory bidding requirements. Those that do not may subject themselves to a lawsuit brought by an aggrieved party, such as a vendor or contractor who was not given an opportunity to bid. Also, boards should be careful not to engage in conduct with the intention to avoid the bidding requirements in North Dakota law. This includes taking steps to separate expenditures or projects into phases with the purpose of avoiding the statutory requirements. Indeed, section 15.1-09-34 expressly applies to “aggregate” expenditures of more than \$50,000.

Notwithstanding, section 15.1-09-34 includes several exceptions to the standard bidding requirements. For example, the bidding requirements do not apply to the expenditure of funds in exchange for personal services of district employees. In other words, regardless of the number of wages paid to district employees (certified and classified alike), the board is not required to follow the

bidding requirements in section 15.1-09-34 when hiring employees. Also, the board’s purchase of a used motor vehicle primarily used for the transportation of students is exempt from the bidding requirements. A “used motor vehicle” as defined by statute means “a motor vehicle that has been previously owned or leased and which has an odometer reading in excess of [18,000] miles.”

The board is also not required to comply with the bidding requirements in section 15.1-09-34 when contracting for school transportation services. That process is addressed in NDCC Ch. 15.1-30, which contains an initial requirement to provide notice and obtain bids for such services. Once the contract is awarded to a contractor, however, the contract may be renewed by direct negotiation. Even so, if such a contract is to be renewed by direct negotiation, the board is required to publish notice in the official newspaper of the district, at least 30 days before renewal, and must make a good-faith effort to obtain at least two written quotes for the contract. There are additional requirements tied to this process that are set forth in section 15.1-30-11.

The most common inquiries regarding bidding requirements are associated with the construction and improvement of school facilities. Section 15.1-09-34 expressly exempts these expenditures from its bidding requirements. Rather, the

*Continued on next page...*

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requirements set forth in Chapter 48-01.2 apply in those instances. Section 48-01.2-01 contains a long list of defined terms, which are important to determine whether a certain project (whether new construction, an update, or a repair) must comply with the requirements of Chapter 48-01.2. Section 48-01.2-02.1 provides that the threshold for bidding the construction of a public improvement is \$200,000. In addition, the threshold for procuring plans, drawings, and specifications from an architect or engineer for the construction of a public improvement is also \$200,000. Thus, whether the bidding and other requirements apply depends in part on whether the subject project constitutes "construction of a public improvement." It may seem like an easy determination, but it is an important initial box to check to make sure the board is following the correct bidding procedures.

To this end, section 48-01.2-01(4) defines "construction" as "the process of building, altering, repairing, improving, or demolishing any public structure or building or other improvement to any public property." It expressly excludes the routine operation or maintenance of existing facilities, structures, buildings, or real property. Section 48-01.2-01(21) defines "public improvement" as any improvement undertaken by a governing body for the good of the public and which is paid for with any public funds. A particular project must meet these definitions, as well as the threshold requirement, for Chapter 48-01.2 to apply. If it does not, but it still involves the expenditure of an amount greater than \$50,000, then the board would be required to follow the bidding procedures set forth in section 15.1-09-34.

It is important to be aware of the various statutory requirements to ensure compliance regarding bidding. Even if no statutory bidding procedures apply, boards often adopt policies that contain their own requirements, or they voluntarily follow the bidding procedure set forth in section 15.1-09-34 as a good practice. Regardless of the situation, please feel free to contact NDSBA for further guidance.

## NDSBA Seeking Student Artwork for Annual Holiday Card!



NDSBA is still seeking holiday-themed student artwork to be featured on our holiday cards. Artwork should be landscape-oriented and 5.5x4.75 inches. The student whose artwork is chosen will be recognized in the **January** issue of the *Bulletin* and receive a \$50 Amazon gift card. NDSBA will also make a \$200 donation to the student's classroom.

Artwork can be submitted in two ways:

1. Original artwork can be mailed to NDSBA, 1224 West Owens Ave., Bismarck, N.D., 58501.
2. High quality scans (300 dpi or greater) of original artwork can be emailed to [taylor.lassiter@ndsba.org](mailto:taylor.lassiter@ndsba.org).

All submissions should include the name and grade of the student, the name of the student's teacher, and the school district. Artwork must be received in the NDSBA office **by Thursday, December 5**.

## 2025 Legislative Committee Members Needed

NDSBA is seeking board members to serve on the 2025 Legislative Committee. This committee is an important part of setting the legislative direction for NDSBA and ensuring we are able to serve our members accordingly. Two to four board members are needed from each region. This session will be a heavy haul as we are well past double the amount of bills drafted at this time in 2022.

If you are interested in serving on the committee, please fill out the form at <https://forms.gle/M5gLXcdGHZzGARCy6>.

## NDSBMCP Winter Online Training

The North Dakota School Business Manager Certification Program first-year students will be able to register for the Introduction to Accounting and Introduction to Payroll online courses or test-out option on December 2.

This online training is available to both current and graduate students. Graduates of the business manager certification program will receive a discounted rate and earn 1.5 continuing education credits for each class taken. Interested business managers can learn more about these courses by going to the NDSBMCP website at [www.ndsbmcp.org](http://www.ndsbmcp.org) and clicking on the NEWS tab or by calling the NDSBA office at 1-800-932-8791.





1224 West Owens Avenue  
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## MARK your calendar

### 2025 NDSBA Negotiations Seminar

February 6-7, 2025  
BSC National Energy Center of Excellence,  
Bismarck

### 2025 Local Government Capitol Connection

February 18-19, 2025  
Bismarck Event Center | Capitol, Bismarck

### 2025 COSSBA National Conference

March 21-23, 2025  
Atlanta, Georgia

### 2025 NDSBA Annual Convention

October 9-10, 2025  
Bismarck Event Center, Bismarck



## REMINDER: Superintendent Evaluations

North Dakota law requires school boards to complete a formative evaluation of superintendents **ON OR BEFORE NOV. 15** [NDCC § 15.1-14-03]. This evaluation must take place at an open public meeting. One purpose of the November evaluation is to highlight areas of performance in need of improvement and provide an improvement plan and a timeline for expected enhanced performance. The law regarding superintendent evaluations states if the superintendent is found to be unsatisfactory in any area, the board shall detail its findings in the report and make recommendations. This process allows opportunity for professional growth before the superintendent's formal evaluation, which must be complete **ON OR BEFORE MARCH 15**. A sample evaluation form is available on NDSBA's website and [www.ndsba.org](http://www.ndsba.org) under RESOURCES.