



# bulletin



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*Excellence in North Dakota public education through local school board governance* ■ VOL XLVIII ISSUE 1

## Reminder—Registration Open for 2023 Negotiations Seminar

Registration is open for NDSBA's 2023 Negotiations Seminar, which will be held at the Bismarck Hotel on Friday, February 3.

Three early-bird sessions will be held on Thursday, February 2. The agenda and registration information are available at [www.ndsba.org](http://www.ndsba.org). **Be sure to take advantage of advanced pricing discounts and register today!** Prices increase on January 25. The agenda is below:

### **Thursday, February 2**

9 a.m. – 10:30 a.m.: School Board Committees: Legal Pointers and Tools for Success  
10:45 a.m. – 12:00 p.m.: Superintendent Negotiations & Contracts  
1:30 p.m. – 4:00 p.m.: Teacher Nonrenewal & Discharge

### **Friday, February 3**

8:30 a.m. – Negotiations basics, preparation, and strategy  
10:15 – Break  
10:30 – Impasse- How to Avoid it and How to Prepare if You Can't  
11:45 – Lunch (included)  
12:45 p.m. – Experienced Negotiator Panel: Negotiation Scenarios  
1:45 – Financial Aspect of Negotiations  
2:30 – Legislative Finance Panel  
3:30 – Adjourn

We have reserved a room block at the Bismarck Hotel (701-258-7700). **Be sure to request rooms in the NDSBA block.** Call to make your reservations now!



## February New Member Seminar

NDSBA will hold a New Member Seminar on Thursday, February 2, 2023, at the Bismarck Hotel. North Dakota Century Code § 15.1-09-32 requires new school board members to attend an in-service training workshop hosted by the North Dakota School Boards Association or its designee within one year of assuming office. Sessions will not be recorded but presentations will be available online after the seminar. A detailed agenda and registration information are available at <https://www.ndsba.org/wp/ndsba-events/annual-convention/new-member-seminar/>. Districts are encouraged to register early; registration fees will increase on January 25, 2023.

## Superintendent Evaluation Deadline March 15

North Dakota law requires that a school board complete the superintendent's summative evaluation process **BEFORE MARCH 15**. This means all paperwork, compilations, and public discussion of the evaluation must occur before March 15. A board cannot complete the process if they wait until the March meeting.

It is best to begin the process early in February to ensure compliance with the statutory deadline. The statute also requires that the superintendent be evaluated using a satisfactory or unsatisfactory rating.



## Book Rooms for 2024 NDSBA Annual Convention

NDSBA's 2024 Annual Convention will begin on Thursday, October 24, with Law Seminar and New Member Seminar. Regular convention activities will begin that afternoon and conclude on Friday afternoon, October 25.

The Bismarck Hotel began taking room reservations for the 2024 Annual Convention on January 3, 2023. Call the Bismarck Hotel at 701-258-7700 to secure your room reservations early.



# Legal Spotlight Electing Board Members Based on Geographic Area: Is this Allowed?

by Amy De Kok, NDSBA Legal Counsel

Earlier this month, NDSBA conducted school elections training for school district business managers. During the training, business managers were provided information on various topics important to elections, including required candidate filings and candidate eligibility. At each of the three training sessions, the question arose regarding what to do if a candidate does not reside within the specific geographic area for an office up for election. After some discussion, it seemed the question came from a common set of circumstances: at some point in the past (usually several decades ago), the school district was divided up into separate geographic areas from which school board members are elected and now, it is difficult to get candidates to run from certain of these areas. This was not surprising to hear as this question (i.e., whether board members may be elected from certain geographic

areas in a school district) is one that I've heard several times over the past year. So, is this allowed under North Dakota law? The short answer: only if the district is a reorganized district and the reorganization plan approved by the voters provided as such.

The default rule is that a qualified elector may serve as a board member for the district in which the individual resides and board members must be elected at large. This is reinforced in several provisions of the North Dakota Century Code, including:

- NDCC 15.1-07-14 – An individual who is a qualified elector in this state may: (a) Vote to elect board members for the school district in which the individual resides; (b) Serve as a board member for the school district in which the individual resides; and (c) Serve as a judge or clerk of election for the school district in which the individual resides.
- NDCC 15.1-09-01 – The voters of a school district shall elect school board members at large. If, however, the district has been reorganized, board members may be elected at large, by geographical area, or at large by geographical area.
- NDCC 44-01-01 – Every elector is eligible to the office for which that person is an elector, except when otherwise specially provided. No person is eligible who is not such an elector.

Currently, there is nothing in North Dakota law that permits a non-reorganized school district to divide its district into separate geographic areas and restrict board membership based on those areas. School districts who undergo the reorganization process outlined in NDCC chapter 15.1-12 (also known as consolidation) may do so if it is set forth in the reorganization plan approved by the voters at an election in accordance with those provisions. Otherwise, it is not permitted by any particular provision in the Code. It is important to note here that, like other

political subdivisions, public school boards only have the powers expressly conferred upon them by the legislature or such as may be necessarily implied from the powers expressly granted.

So, what do you do if you are a district that is not reorganized, but currently restricts board membership by geographic area? Because there is nothing permitting you to do so in the law, not surprisingly, there is no direction regarding what to do if you are. One potential option is to take the issue back to your voters (assuming that is how you got there in the first place); however, if the voters do not approve the change, you are still at square one. A better option may be this – as seats come up for election, you list them on the ballot as an at-large seat (as opposed to one designated by geographic area). With this option, all current board members are permitted to serve out their terms and then may run for reelection if they so choose assuming they are still qualified electors within the district.

To be clear, NDSBA is not offering specific legal advice in this article. A district interested in exploring options should consult with legal counsel. Also, NDSBA recognizes that such a change may ruffle some feathers in your district; however, we have discovered that this issue is quite common throughout the state and felt the need to inform our members.

Please feel free to contact NDSBA General Counsel for additional information regarding this issue.

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



## NDIRF to Lead HR Collaborative Program for Local Government

As of January 1, 2023, The North Dakota Insurance Reserve Fund (NDIRF) will lead the HR Collaborative for Local Government (HR Collaborative), a program that aims to strengthen human resource management within North Dakota local governments by providing relevant and affordable training and resources to meet the specific needs of local government HR professionals. The NDIRF named Joanna Drennen as the program's executive director.

Since its inception in August 2008, the HR Collaborative has provided human resource management training and resources to more than 800 North Dakota local government HR departments through its biennial

conference and virtual workshop series as well as its website ([www.hrndgov.org](http://www.hrndgov.org)) which features a comprehensive HR Reference Guide.

The HR Collaborative's success is the result of hard work by consultant Kathy Hogan and members of the program's technical and executive committees. Hogan, who serves in the North Dakota Senate, brought forward the idea for the HR Collaborative to become an NDIRF program in July 2022, referring to it as a natural fit within the NDIRF's risk management services. While she acknowledged personal time constraints also influenced her recommendation, she shared the program's strong member engagement and continued growth would ensure a smooth transition.

The HR Collaborative was formed through a grant from the Otto Bremer

Foundation and in partnership with the North Dakota Association of Counties, North Dakota League of Cities, North Dakota School Boards Association, North Dakota Parks and Recreation Association, and the North Dakota Insurance Reserve Fund. Representatives from these associations who serve on the technical committee will remain integral to the success of the program.

The NDIRF will continue to provide the HR Collaborative's existing human resource management training and resources as well as implement new initiatives, including increased content development and an updated website and online presence.

For more information about the NDIRF, visit [www.NDIRF.com](http://www.NDIRF.com).



## NDSBMCP Upcoming Trainings

The following information on North Dakota School Business Manager Certification Program courses is pertinent for first year and second year students to know for completion of the program. 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.

### February Training for Second Year Students Only

Registration for the *Business Manager's Role in Negotiations* and *Data Driven Decision Making and Board Reporting* courses for second year students is open. The classes will be held on February 1, 2023, at the Bismarck Hotel. A room block has been reserved at the Bismarck Hotel under NDSBA. Please make arrangements according to the needs of your district for the 2023 NDSBA Negotiations Seminar and New Member Seminar that will take place February 2-3, 2023. Reservations can be made by calling (701) 258-7700.

### March Training for First and Second Year Students

Registration for the *Budget, Budget Forecasting and School Accreditation* and *School Law for Business Managers* for first year students and *Bidding, Purchasing, and Inventory* and *Human Resources II* for second year students is now open. The classes will be held on March 14, 2023, at the Bismarck Career Academy. A room block has been reserved at the Home2 Suites under NDSBMCP until February 1, 2023. Reservations can be made through the following link, [tinyurl.com/mryxnaec](http://tinyurl.com/mryxnaec) or by calling (701) 751-3400.

## Become an Expert in Playground Safety

Submitted by North Dakota Rec and Parks Association

The North Dakota Recreation & Park Association (NDRPA) is holding its 21st annual Certified Playground Safety Inspector (CPSI) Course March 21-23, 2023, in Bismarck.

Participants will learn about the latest developments in playground safety through classroom instruction and hands-on site investigation during this two-day course. Individuals interested in becoming a certified playground safety inspector may take the optional exam on the third day.

Sponsorships from the North Dakota Parks & Recreation Department and the North Dakota Insurance Reserve Fund (NDIRF) make this first-class course, hosted by the Bismarck Parks & Recreation District, possible.

### Scholarships Available

Limited scholarships are available to NDIRF and NDRPA members who register for both the course and the exam. The scholarship (\$425 value) will cover the cost of course registration. Members who receive a scholarship only pay \$120 for the exam fee.

The scholarship is limited to three

people per agency and distributed on a first-come, first-served basis. If an agency submits more than three scholarship requests, additional requests will be placed on a waiting list to be awarded on a first-come, first-served basis after January 27.

### Register Today

The final registration deadline for the course is February 17. The course schedule and registration details are available at [www.ndrpa.com](http://www.ndrpa.com).

For more information, contact NDRPA at 701-355-4458 or [ndrpaoffice@gmail.com](mailto:ndrpaoffice@gmail.com).

**RETURN SERVICE REQUESTED**



**Tioga School District**

Contact: Alexis Baxley  
Phone: 701-255-4127  
Email: [alexis.baxley@ndsba.org](mailto:alexis.baxley@ndsba.org)  
Website: [www.ndsba.org](http://www.ndsba.org)  
Deadline: January 23, 2023  
Position Begins: July 1, 2023

**Velva 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 1, 2023  
Position Begins: July 1, 2023

**Kindred School District**

Contact: Melanie Moffet  
Phone: 701-428-3177  
Email: [melanie.moffet@k12.nd.us](mailto:melanie.moffet@k12.nd.us)  
Deadline: February 1, 2023  
Position Begins: July 1, 2023

**St. John School District**

Contact: Mary Vandal  
Phone: 701-477-5651  
Email: [mary.vandal@k12.nd.us](mailto:mary.vandal@k12.nd.us)  
Application: Letter of Application,  
Resume, and Three Letters of  
Reference  
Deadline: February 3, 2023  
Position Begins: July 1, 2023



**New Member Seminar**

February 2, 2023  
Bismarck Hotel, Bismarck

**2023 NDSBA Negotiations Seminar**

February 2-3, 2023  
Bismarck Hotel, Bismarck

**2023 NDSBA Annual Convention**

October 26-27, 2023  
Bismarck Hotel, Bismarck



**State Mileage  
Rate Changes**

**As of January 1,  
2023, the state rate for  
mileage reimbursement is \$0.65.5  
per mile.**

State mileage rates can be found  
on the North Dakota Office of  
Management and Budget website  
at [www.nd.gov/omb/agency/  
financial/fiscal-policies](http://www.nd.gov/omb/agency/financial/fiscal-policies) under Fiscal  
Administrative Policy Updates  
Effective 1/1/2023.

Mileage rate updates can also be  
found on NDSBA's webpage under  
QuickClicks: Mileage  
Reimbursement Rate (link to [www.  
gsa.gov](http://www.gsa.gov) website).



## 2023 School Board Election Deadlines Example

Annual school board elections must be held between **April 1 and June 30** (NDCC 15.1-09-22). **NDSBA is using June 13, 2023, as an EXAMPLE election date. If you have a different election date, compute your schedule in accordance with state law cited below.** If your school board election is held in conjunction with a county election, the county election board should administer the election in the same manner as the county or state election. (NDCC 15.1-09-13 (4))

MARCH							APRIL							MAY							JUNE													
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S							
			1	2	3	4				5	6	7	8				1	2	3	4	5	6								1	2	3		
5	6	7	8	9	10	11	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
12	13	14	15	16	17	18	9	10	11	12	13	14	15	7	8	9	10	11	12	13	14	15	16	17	18	19	20	11	12	13	14	15	16	17
19	20	21	22	23	24	25	16	17	18	19	20	21	22	21	22	23	24	25	26	27	18	19	20	21	22	23	24	18	19	20	21	22	23	24
26	27	28	29	30	31		23	24	25	26	27	28	29	28	29	30	31				25	26	27	28	29	30		25	26	27	28	29	30	
							30																											

**March 11, 2023 - 94 days before the election**

**30 days before** the deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city or county. (NDCC 15.1-09-09)

**April 10, 2023 - 64 days before the election**

An individual seeking election to the board of a school district shall prepare and sign a document (Statement of Intent) stating the individual's name and the position for which that individual is a candidate. A candidate shall also file a Statement of Interests as required by section 16.1-09-02. These documents must be filed with the school district business manager or mailed to and in the possession of the business manager by 4:00 p.m. **on the 64th day before** the election. (NDCC 15.1-09-08)

Each board of a school district that enters into an agreement with the county (to share election expenses) must notify the county auditor in writing, **at least 64 days before** the election, the offices to be filled at the election and any measures to appear on the ballot. (NDCC 15.1-09-24) NOTE: This deadline only applies to school districts holding the annual election in conjunction with a primary election and sharing election expenses with a county.

**May 4, 2023 - 40 days before the election**

**At least 40 days before** the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to be candidates by meeting the provision in NDCC 15.1-09-08. (NDCC 15.1-09-11)

**May 9, 2023 - 35 days before the election**

**At least 35 days prior** to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible. (NDCC 15.1-09-13 (1))

**At least 35 days prior** to the annual election, the board of each school district shall designate one or more polling places for each precinct. The board shall locate the polling places as conveniently as possible for the voters in the precinct. (NDCC 15.1-09-13 (2))

**May 30, 2023 - 14 days before the election**

**At least fourteen days before** the date of an annual or special school district election, the school board shall publish a notice in the official newspaper of the district stating the time and place of the election and the purpose of the vote. (NDCC 15.1-09-09)

**June 13, 2023 - Election day**

School Board Election

**June 26, 2023 - 13 days after the election**

**On the thirteenth day after the election**, the school board shall meet to canvass all election returns and shall declare the result of an election. (NDCC 15.1-09-15)

**June 29, 2023 - 3 days after canvassing**

**Within three days after the canvass** by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and of the duty to take an affirmation or oath of office. (NDCC 15.1-09-17)

**June 27-July 6, 2023 - 10 days after canvassing**

**Within ten days after the canvass** by the school board, the business manager shall certify the individuals elected and their terms to the County Superintendent of Schools. (NDCC 15.1-09-17)

An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office **within ten days** after receiving notice of the election or appointment and before commencing duties. (NDCC 15.1-09-25)

## TEACHER AND ADMINISTRATOR

### EVALUATION, CONTRACT, AND NONRENEWAL DEADLINES

**Note:** Administrator is defined as principal, assistant superintendent, and associate superintendent. It excludes the superintendent. See reverse side for superintendent evaluations, contract, and nonrenewal deadlines.

EVALUATIONS OF TEACHERS AND ADMINISTRATORS	
<b>First three years individual holds the position:</b> Two evaluations must be conducted on or before December 15 and April 15.	
<b>Fourth year or more individual holds the position:</b> One evaluation must be conducted on or before April 15. <b>NDCC 15.1-15-01(2)</b>	
TEACHERS AND ADMINISTRATOR CONTRACT ISSUANCE & RENEWAL	
Offering contracts to teachers and administrators currently employed	No earlier than March 1 and no later than May 1. Provide at least 14 calendar days to return contracts. <b>NDCC 15.1-15-04(2)</b>
Offering contracts to newly hired teachers and administrators	No deadline in law. Give new hires a reasonable timeframe to consider offer and return the contract (e.g., 10 days).
Contract issuance during negotiations	Issuance suspended until negotiations are complete. <b>NDCC 15.1-15-04(4)</b>
NONRENEWAL DEADLINES FOR TEACHERS AND ADMINISTRATORS	
Notice of contemplated nonrenewal	Must be in writing and no earlier than March 1 and no later than April 15. <b>NDCC 15.1-15-05(1)</b>
Nonrenewal hearing deadline	No later than April 21. <b>NDCC 15.1-15-05(1)(b)</b>
Notice of nonrenewal decision	In writing and no later than May 1. <b>NDCC 15.1-15-06(10)</b>
EXCEPTIONS TO NONRENEWAL DEADLINES FOR PROBATIONARY TEACHERS AND ADMINISTRATORS IN POSITIONS FOR LESS THAN TWO YEARS	
Probationary teacher (an individual teaching in your district for less than two years)	After April evaluation is complete, the board meets with the teacher in executive session to discuss reasons for contemplated nonrenewal. Notice of Nonrenewal must be provided no earlier than April 15 and no later than May 1. <b>NDCC 15.1-15-02(4)</b>
Administrators employed in that position by a district for less than two years	Provide written notice of nonrenewal decision before May 1. Board shall meet with administrator in executive session to convey reasons for nonrenewal if requested. <b>NDCC 15.1-15-05.1(1)</b>

## SUPERINTENDENT

### EVALUATION, CONTRACT, AND NONRENEWAL DEADLINES

SUPERINTENDENT EVALUATIONS	
<b>NDCC 15.1-14-03(1)</b> requires that each school board conduct two evaluations:	
<ul style="list-style-type: none"> <li>On or before November 15</li> <li>On or before March 15</li> </ul>	
SUPERINTENDENT CONTRACT ISSUANCE & RENEWAL	
Contract duration	No more than three years. <b>NDCC 15.1-09-33(25)</b>
Renewal deadline	Automatically renews for one year unless board provides notice of contemplated nonrenewal on or before April 15 or superintendent provides written resignation on or before June 1. <b>NDCC 15.1-14-11</b>
Offering contract to newly hired superintendent	No deadline in law. Ensure contract of former superintendent has been terminated before issuance. Give new hire a reasonable timeframe to consider offer and return a contract (e.g., 10 days).
NONRENEWAL DEADLINES FOR SUPERINTENDENT WITH A DISTRICT LESS THAN TWO YEARS (count only years employed as superintendent)	
Notice of nonrenewal	Provide written notice of nonrenewal decision before May 1. Board shall meet with superintendent in executive session to convey reason for nonrenewal if requested. <b>NDCC 15.1-14-12(1)</b>
NONRENEWAL DEADLINES FOR SUPERINTENDENT WITH A DISTRICT TWO OR MORE YEARS	
Notice of contemplated nonrenewal	In writing and on or before April 15. <b>NDCC 15.1-14-09(1)</b>
Nonrenewal hearing deadline	On or before April 21. <b>NDCC 15.1-14-09(1)(b)</b>
Notice of nonrenewal decision	In writing and no later than May 1. <b>NDCC 15.1-14-10(8)</b>
<b>Questions? Contact NDSBA at 800-932-8791</b>	