

To: Dickinson Public School Board Members
From: Kris Fehr, board member
Re: Report from the North Dakota School Boards Association annual School Law Seminar and Conference, October 29-30, 2015, in Bismarck, N.D.

Thank you, board members, for continuing to budget for Dickinson's school board members to attend training and continuing education on both the state and national level. I learned a great deal at the legal seminar and the conference; almost every speaker provided useful insight and handouts. This year's NDSBA conference recorded 561 convention registrants and 241 delegates for the business meetings. Below are some of my notes and impressions.

Legal Seminar

Ed Massey, a school board member from Erlanger, KY and a past NSBA board president, spoke about Social Media and Public Schools. He reminded us that "computerized items are here to stay." Social media is a way – increasingly *the* way -- we communicate. It's also a way to connect, break down barriers and bring us together. "And together, as people, we become empowered to change worlds." Social media is a tool to enhance communication; however, the lack of interpersonal (face-to-face) communication causes problems. The texted word doesn't contain nuances found in the spoken word. Social media is changing the way students learn: it's more about research and application and less about memorizing. Social media is here to stay. We need to be and to teach to be disciplined to know when to use it and when not to use. Through policies, school boards need to teach the appropriate use of social media devices. New legal issues include plagiarism, posting inappropriate/offensive content on company blogs or bulletin boards, hiring discrimination through internet job postings, badmouthing a company on a personal blog, using social media to harass or discriminate, skewed expectations of privacy on office computers, electronic communications policies, and requirements for backing up electronic communications in the event of litigation. Once litigation is imminent, do not destroy or delete anything. Electronic communication is subject to North Dakota's open meetings and open records laws. Social media issues: bullying, suicide, etc. Safeguards: educate parents about social media policies, control the wifi, disciplinary policies for violations.

Jim Long, former senior attorney for the Office of Civil Rights (OCR), US Department of Education, gave tips for dealing with an OCR Complaint. He said there are 5 principles to keep in mind when there are allegations of discrimination and the OCR is investigating the complaint:

1. It's all about the kids.
2. There are rules about this stuff.
3. The rules are your friends and the only protection you have.
4. Follow the rules.
5. Put the policies in place at the beginning; it's easier than going back.

OCR is in charge of investigating alleged violations of the civil rights statutes if the institution receives federal fund from Dept. of Education, or if it's a Title II complaint against a public school, institution, public institution of higher ed and vocational education, or a public library. The key is to act on a complaint as soon as you know about it. The complaint is against the school district as a recipient of federal funds, not against a person. The attorney represents the school district, not the board or an individual. The school district's attorney may be present during interviews. The best way to get a

complaint closed is to resolve the issue and tell the OCR that it was resolved, providing credible evidence that it was resolved. Mr. Long provided 2 very detailed handouts and several examples.

Top 10 FERPA Questions was presented by Thomas E. Myers, an attorney from Fort Worth, TX. He addressed the intricacies of FERPA. Some of my take-aways:

- ✓ Video images are subject to FERPA; however, the key is who owns the video and who maintains it. For example: video images created and maintained by the school's law enforcement unit, for law enforcement purposes, are not educational records and may be disclosed without consent, according to school policy or state law.
- ✓ Sports videos or band performances: probably not governed by FERPA since they are public performances and the school has parental consent for the students to participate.
- ✓ Recording classes: Post signs that the class is being recorded. It's okay if it's just recording the teacher. If videoing or voice recording students, get permission.
- ✓ Emails: does the content fit the definition of educational record in FERPA?
- ✓ Homework is not an educational record because the school does not maintain it.
- ✓ Live video feed: it is not really live (there's always a delay), so it is an educational record.
- ✓ What about health and safety disclosures? How imminent is the danger? Is it "fixing to happen"?

This was another interesting session in which 2 extensive handouts were provided.

Attorneys David Phillips and Amy DeKok led a session on School District Liability and What to Do When You Get Sued. Their session focused on what to do when the school district is faced with a situation that leads to litigation either in state or federal court or an administrative proceeding. It is best to get either NDSBA or the district's attorney involved as soon as possible. A very detailed handout was provided, detailing types of complaints and the processes for each type of litigation involving a school district. We were also provided with a list of school attorneys in North Dakota.

NDSBA's policy services director, Alyssa Martin, gave an overview of Hiring Policies and Veterans' Preference and a Human Resources Department checklist for determining eligibility for veterans' preference. In 2015 a state law change affected school districts and NDSBA revised the policies of its policy services members. By definition a veteran is eligible if he or she served in the active military forces during a period of armed conflict. In North Dakota, positions eligible for veterans' preference includes all school staff—teachers and superintendents—except for internal hires. She said the job descriptions should be specific with minimum requirements. It is not a requirement, but a suggestion from the VA, that job descriptions and postings state the position is eligible for veterans preference. A rating system isn't mandatory; however, the process must be consistent. A sample rubric, developed by NDSBA for teacher interviews, was presented as an example.

An update on Immunization Laws and Rules for Schools was presented by Claire Ness, assistant attorney general. Key take-aways from this session:

- ✓ Some exemptions are allowed by law.
- ✓ If there's an epidemic (as determined by state health officer) exemptions aren't recognized and children not immunized against the disease must be excluded from school.
- ✓ North Dakota Immunization Information Service (NDIIS) is an online data base of children's and adults' immunizations. Schools and day cares can access NDIIS.
- ✓ School districts must have a policy on how to treat children diagnosed with a significant contagious disease (ex: tuberculosis) and may not permit these children – or those living in a

home with a significant contagious disease -- to attend school until the local board of health permits it.

- ✓ Schools are not required to provide education to students excluded due to non-compliance.
- ✓ Home schooled students are required to meet immunization laws.
- ✓ Students excluded from school due to non-compliance may be considered truant.
- ✓ Non-compliant students *and employees* can spread vaccine-preventable diseases that can harm other students. The school district and individual school employees may be liable for harm; insurance may not cover defense costs or financial liability.
- ✓ DPI can fine school districts \$1000 per occurrence for non-compliance.

NDSBA's new legal counsel, Anita Thomas, gave a report on International Comparisons-Commonalities Among High-Performing School Systems. She reported on the International Program for Student Achievement using her view as a task force member to find out why the US does poorly on international tests, and implications. There was a lot of corollary information provided and many facts. The key take-aways from the task force's work:

- Kids do better in school when they are healthy, happy and ready to learn. Factors include generational support of education, expectations that all facilities and teachers will be high level, highly coherent educational systems, use internationally benchmarked standards, and standards must include commentaries and examples because general statements are not effective, and student assessments are based on work throughout the year: based on accomplishment not effort.
- Education reforms won't have an impact without highly qualified teachers. Factors include demonstrated high aptitude for helping students: engage, connect with students; general intelligence: low admission standards (at teacher education programs) lead to low teacher achievement; knowledge and proficiency in the subject area is deeper and advanced; and on-going professional development must be valued in the teaching profession's culture.

NDSBA Conference

Keynote speaker Jamie Vollmer used to be a harsh critic of public education and now he is president of a public education advocacy firm working to increase student success by raising public support for America's schools. He presented Welcome to the Great Conversation: Building Public Support for Public Schools – One Community at a Time. He said that running education is like running a business: we think that 90% of the problem is the people/students; but people aren't the problem. We need to hold students more accountable; however, standardized tests don't show what students know and don't measure the qualities that Americans value. School systems are still built on Thomas Jefferson's 1781 model for public education, which didn't envision every child in schools—just a small handful of thinkers and a large pool of labor. “Nostesia”: 50% nostalgia and 50% amnesia about how school was when we were enrolled. We have added hundreds of things for our schools to do and haven't added a single minute to the school day. Vollmer said this is a magical time. Teach every single child to his or her potential. The moral imperative meets the practical now, today. Every child must graduate with a rich portfolio. Poorly educated people are desperate and desperate people are dangerous. Here are the 5 things he says everyone can do to raise support for schools:

1. Stop badmouthing one another in your schools and in public. Negativity spreads. Keep the trash talk out of the public arena.
2. Shift your attention from the negative to the positive.
3. Share something positive with family and friends.

4. Sustain the effort.
5. Start now.

Ed Massey presented Students Serving on School Boards and used Skype to have one of his student board members take part in the session. Students campaign in his school district to be the student representative on the school board. It teaches the electoral process, gives them board experience, public speaking experience, community involvement, civic engagement, leadership experience and increased confidence. The student representative gives a report at each meeting and doesn't vote, but can ask questions and give comments. They are held to the same standard as board members, serve on ad hoc committees of the board and don't receive compensation. Several handouts were available on this topic.

Corey Fong and Amanda Godfread from Odney Advertising presented Communicating & Leveraging the Media. They talked about building relationships with the media and presented several strategies, how to know if the story idea is actually news and how to present it to a media representative, have 3 key messages ready to say in 15 seconds (tv sound bite) and stick to the message, designate spokespersons and detail people for issues, follow up with a thank you or to give additional information and share the story on social media, through email distribution, etc.

Supt. Kirsten Baesler presented the following information in a "conversation" session:

- Early Childhood Education is a planning process. Grants will be available July 1, 2016. Contact DPI, Dept. of Commerce or Dept. of Human Services for information. Concerns she's hearing:
 - Small rural schools are taking advantage of the grants.
 - There is a shortage of highly qualified preschool teachers. Pre-k teachers need additional licensing and credentials. She says pre-k should be on the teacher salary schedule if they are contracting with the school district.
- Leveraging the Senior Year to help solve problems when graduates get to college. 40% of freshmen at ND colleges need remediation. She wants the exact same remediation courses in college to be delivered in the senior year of high school, based on data from the junior year to determine if they are college ready and to give them the skills. She wants to get the citizenship test data and GPA, ACT and state assessment to determine what students are lacking. She has budgeted \$1.5 million for AP teaching and related costs. DPI would provide the funding for a classroom teacher for remediation.
- She wants to provide alternative paths to masters degrees in teaching.
- Real time/on time funding: Challenge is the overall budget and there are concerns about double-counting students and ghost students. Her goal is to get the current student count. Smaller districts with declining enrollment don't want to use real time counts. Rapid enrollment funds didn't work because most districts didn't increase enough.
- Open enrollment: DPI is the regulatory agency. There's not a lot of appetite in the legislature to take away parent choice so open enrollment will probably stay. Local control is king.

Dr. Jean Twenge, professor of psychology at San Diego State University and another general session speaker, presented Generation ME: Teaching and Working with Today's Young People, based on her research into the "entitlement generation" of those born in the 1980s and 1990s. She talked about the current narcissism epidemic, dramatic shifts in attitudes toward work and personal time, and the challenges of Generation Me. She said that generations are about culture: growing up in the 1950s versus now is almost as different as comparing the U.S. with China. The culture is delivered by parents,

media and teachers. It's no one's fault and her studies show that trends are similar across demographic groups. Preservation of self-esteem: everyone gets a trophy, everyone's trophy is the same size, not keeping score, not correcting mistakes. Popular advice for young people centers on the individualistic: you are special, believe in yourself, just be yourself, etc. Self-admiration phrases were rare until the late 1970s. Characteristics she is seeing: over-confidence, high self-esteem, lack of empathy, poor relational skills, entitlement, self-centered, self-important. Schools aren't discouraging narcissism but are reinforcing that the world revolves around me. Recommendations:

1. In the classroom
 - a. Eliminate self esteem programs
 - b. Reward actual accomplishments
 - c. Increase interactive learning
 - d. Incorporate more variety into the classroom (videos, discussion)
 - e. Put textbooks on tablets: short passages, interactive, integrate videos
 - f. Tell them why it's important to them.
2. In the workplace
 - a. Understand each other's perspective
 - b. Balance between experience and new ideas
 - c. Don't always need to do it the old way
 - d. Understand the biggest generation difference: the work-life balance
 - e. More praise, more flexibility
 - f. Less top down

The biggest question: Does the world change for this generation or does this generation change?

At the last delegate session of the convention, all but one of the resolutions requiring review was recommended for reoption as written. One was recommended for reoption as amended. One was defeated for reoption because it was accomplished in the last legislative session.

NDSBA officers were elected: President Jim Rostad, Minot; Vice President Ben Auch, Mott/Regent; Southwest director Lawrence king, Bismarck; Northeast director Holly Stromsodt, Finley-Sharon.