

To: Dickinson Public School Board
From: Tanya Rude, board member
Date: October 28, 2017

NDSBA 2017 Law Seminar and Convention Report

As I begin the report, I would like to thank the school board for the opportunity to attend the 2017 NDSBA Law Seminar and Convention held on October 25-26, 2017, at the Grand Dakota, Bismarck. The following is some of the information I gained from attending the seminar and convention. (Some information may have been taken directly from handouts given or a summary of handouts and/or speakers.)

Thursday, October 25th, 2017

Law Seminar

Do No Harm: The Unintended Consequences of Legal Remedies in the Juvenile Justice System, presented by *Karen Kringlie, Attorney, Director of Juvenile Court, East Central Judicial District; Cory Pedersen, Director of Juvenile Court, South Central and Southwest Judicial Districts*

- It is illegal to disobey parents in ND.
- Core purposes of Courts: Provide a forum for resolution of disputes, Individual justice in individual cases, protect citizens against the arbitrary use of government power, make a formal record of legal status, deter criminal behavior, and help rehabilitate those convicted of serious offenses.
- 1911 was the first juvenile justice in ND. In ND cases are not jury, but bench cases. The focus of juvenile justice in ND is rehabilitation.
- Restorative justice is: repairing harm, reducing risk and creating opportunities.
- Juvenile Justice reform is driven by research on brain development and trauma, and evidence-based programs, as opposed to what make adults feel good. Most kids age out of behavior; rarely do they remove kids from community, but provide life coaches.
- Diagnosis is the key: if low risk kids are in system it can be more harmful to those kids; best to keep high risk and low risk kids separated.
- It is better for kids to have an in-school suspension vs. out-of-school suspension; the graduation rate is generally higher for in-school suspensions.
- The juvenile delinquency in ND on slow steady decline, but courts are continuing to see an increase in child deprivation rates.

The View from Washington: A School Law Update by *Sonja Trainor, Program Director, Council of School Attorneys, NSBA*

- Justice Kennedy has a 90% swing vote and has made comments that he may not continue much longer.
- In a case of Individuals with Disabilities Act (IDEA), the district must do all that it can to accommodate, but not to the point of exhausting administrative remedies.
- For IEP's, it is important to establish a baseline, cannot express how important this is for a district.
- When it comes to civil right enforcement in schools, the OCR is to take each claim as they come, no type of complaint is to automatically be treated differently in terms of scope.

Data Breach: Information and Response presented by *Brennan Quintus, Risk Security Manager, ND Insurance Reserve Fund*

- North Dakota's Breach Notification law: NDCC Chapter 52-30
- Breach of Security System law: NDCC 51-30-01
- "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.
- Breach expenses, include but may not be limited to: legal, forensics, notification, call handling, credit and fraud monitoring, and identity theft resolution. True cost varies on: type of data, type of breach, legal or IT assistance, vendor costs will vary, and breach fall-out.
- Employee error: Know who has access to data--it is best to limit access as much as possible; Educate and train employees--this is a culture change and adds to employee awareness; Stolen passwords--use strong, unique passwords, avoid password reset questions with answers easily found online.
- Points to ponder: A data breach is not always a disaster, mishandling it is!; 23% of recipients opened phishing messages and 11% clicked on attachments; On average, it's just 82 seconds before a phishing campaign gets its first click; Be vigilant!

Search and Seizure presented by *Rachel Bruner-Kaufman, Attorney at Law, Pearch Durick PLLC, Bismarck*

- Is it against 4th amendment to search a phone if a student was seen using and is against school policy? Maybe. Teacher might be justified in checking to see if student violated school policy by sending text during school, however opening texts may be seen as an unreasonable search.
- If looking for drugs, school officials can search backpacks, handbags, lockers, pockets, but may not search content on cell phones.
- The 4th Amendment does apply to school, but with a less stringent requirement of reasonable suspicion. Reasonable suspicion requires: search being justified at the inception, and search, as actually conducted, reasonable related in scope to the circumstances which justified the interference in the first place.
- Random searches of students and their property is allowed in some circumstances: random drug testing of athletes--typically allowable, random searches of students and their personal property--typically allowable, and search based on metal detectors or dogs that alert to weapon or drugs--typically allowable. If in doubt, have SRO present.

The Opioid Threat in North Dakota: An Educated Approach presented by *Chris Meyers, U.S. Attorney for the District of North Dakota; Dr. Jeffrey Schatz, Superintendent of the Fargo Public Schools*

- Four out of five addictions start with prescription pain killers. When prescription use is over, users will switch to heroin.
- May "use to get well", because of the withdrawal of opioids.
- Opioids are more potent than morphine.
- Fentanyl is a synthetic opiate pain killer, fast acting analgesic, and used in terminally ill patients. Prescribed sparingly due to its potency.
- Fentanyl Analogues: similar effect as fentanyl, sold as "research chemical", but used as designer drug. It is a very fine white to off white powder, and mostly produced in China or overseas and brought in.
- Some signs of use: change in behavior, stealing, withdrawn, hostile, physical signs (constricted pupils, itching, constipation, slower movements of speech, tiredness, and nodding in and out of consciousness), and cell phone is lifeline to drug traffickers. Addiction if VERY tough to get over, intervene IMMEDIATELY!!
- Some signs of withdrawal: sweats, chills, diarrhea, vomiting, insomnia, restlessness, tremors, bone pain, and seizures. Basically, MAJOR flu like symptoms.
- As part of Fargo Public Schools' Strategic Initiative 5: Community Outreach and Communication, they developed a Student Wellness and Family Facilitators partnership for their goal #6 -- Mental Health, Dropout Prevention, and Youth Risk Services. This facilitator offers families and children support to be able to function in school and at home. They meet to understand and determine how best to help them and plug them into the community resources and ongoing support, and then follow up assistance may be provided. They also provide additional support to educational teams for student success. Fargo schools have 6 of these facilitators in their district, they have to have a bachelor's degree in behavioral science or related field from an accredited university, among other qualifications.

First Amendment Challenge to the Practice of Providing an Invocation at Graduation presented by *Dr. Steve Holen, Superintendent, McKenzie County School District, Watford City*

- McKenzie County School District was contacted by the Freedom from Religion Foundation that they were basically infringing on 1st Amendment rights of students by having a student led invocation and benediction as formal practices of their graduation ceremony.
- McKenzie County School District responded that they would no longer have it in their formal graduation ceremony but they are not responsible for student speeches and presentations as part of the ceremony making reference to religion or prayers. The invocation and benediction would no longer be in the formal ceremony starting 2017 graduation. Baccalaureate ceremony was handed over to the local ministerial association, which they then rent (free) the facility for the ceremony, beginning 2017 graduation.
- Student speeches or presentations cannot be censored by teachers or administrators, it is a 1st Amendment right.
- Review of other practices in the District: Facility utilization, music selections, student clubs, and social media.

Discrimination and Harassment Issues: ND Litigation and Other Examples --Why and How to Properly Investigate Complaints presented by *Meredith Vukelic, Attorney at Law, Pearce Durick PLLC, Bismarck*

- School District-Level Complaints, properly investigate them! WHY? Legally required to do so, promptly and equitably; Avoid or more easily defend a lawsuit against your district and against individual employees/board members; Avoid or more easily defend as OCR or DOL/EEOC complaint against your district; Avoid low morale, bad publicity, unsafe work/educational environment.
- Good documentation help dramatically.
- Remember, you don't have to provide what was asked for, but is reasonable.
- School District-Level Complaints, properly investigate them! HOW? Implement/update nondiscrimination and anti-harassment policy (AAC); Implement/update Discrimination and Harassment grievance procedure (AAC-BR); Train ALL STAFF AND STUDENTS on policy and grievance procedure--what are their roles?; Identify a properly trained

coordinator to oversee proper handling of complaints; Properly train any other personnel who may be involved in investigations; Properly and equitably investigate complaints--neutral, unbiased investigator; Document everything, issue WRITTEN determination letter, monitor, and maintain investigation file for 6 years.

- Discrimination is defined in NDCC 14-02.4-02(6)

A Challenge to North Dakota's Tort Caps Resulting from the Larimore Bus Accident presented by *Amy De Kok, NDSBA Legal Counsel*

- The Larimore School District and NDIRF filed an interpleader action in state court. An Interpleader is designed to eliminate multiple lawsuits over the same stake and to protect the stakeholder from actual or potential multiple liability.
- ND State Trial Court issued a detailed written decision denying Defendants' Motion for Summary Judgment, determined that NDCC 32-12.1-03 is constitutional, and confirmed deposit of funds and discharged school district and NDIRF from all further liability.
- Defendants have appealed to the state supreme court and oral arguments should take place sometime in November.

NDSBA Convention

Thursday afternoon

Be The Best You Can Be presented by *Rocky Bleier*

- We live in a culture of choice, which comes responsibility and to act on that information. One choice is to be the best we can be.
- We all have a story of how we got to where we are today
- Hope - There's always hope
- Team:
 - Every part must come together for common goal and commitment
 - Commitment and trust have to occur
 - Definable leadership--ability to influence and do what is right
 - Talented people
 - Vision
 - Buy in on the vision
- Courage--take information and take action
- Make commitment to perform well and work as a team
- Don't make things complicated
- We're all in the HOPE business.
 - We can achieve and become someone
 - No matter how well we do we still question and want to move on, but for one other person
 - Fine line on one talent allows going on
 - Destiny is a choice.

Friday, October 27th, 2016

The convention morning was opened by Governor Doug Burgum speaking about the innovation grant and encouraging districts/schools to get on board and work toward getting the grant.

Crucial Conversations about America's Schools presented by *Dr. John Draper*

- Belief is contagious...spread yours around!
- Commit to do 4 things: Shift your attention to the positive, never bad mouth another educator, share one positive story per week with your personal network, and monitor your progress. This is adapted by "Schools Cannot do it alone", by Jamie Vollmer.
- Miracles happen every day in public schools.

Innovative Education Programs presented by *Gail Schauer, Director of School Approval and Opportunity, and Ann Ellefson, Director of Academic Support, Department of Public Instruction*

This session ended up canceling about 15 minutes after it was supposed to start. I did not find a replacement session.

From Good to Great: Four Tips for Creating a World Class Organization presented by *Dr. Cory Steiner, Northern Cass School District Superintendent*

- Northern Cass County School District (NCCSD) has about 95% of their students being bused, and 30% are open enrolled. Teachers come from Fargo, which is 25 miles away. They used to have declining enrollment--students would go to Fargo, and teachers used to not want to be there--resulted in high turnover.

- Now: student population continues to increase, and teachers want to be there.
- The goal at Northern Cass is they want to have EVERYONE "Want" to walk through those doors.
- They set some "norms", which are based off of the FISH Philosophy.
 - Choose your Attitude
 - Be present--put devices away
 - Play--laugh even when tension is high
 - Make someone's day--give compliments, Listen, or do something for them
 - Additional Northern Cass Norms:
 - Be on time--early is on time and on time is late and late is occasionally acceptable, teachers and students take accountability
 - "The truth is, there's no easy road to be exceptional, but knowing from the start that this is what you're after, is always a great way to begin" by Alan Watts.
- Four "secrets to success"
- Secret #1-- Know your why and live your commitments
 - mission and vision
 - why and collective commitments
 - Why do we exist: Start with Why?
 - NCCSD: We believe every kid can change the world; therefore, we will provide a world class education
 - Changed their thinking to look at positives
 - What is your individual WHY as an educator? How does it connect to the districts WHY?
 - Collective Commitments--they are dedicated and passionate about relationships, teaching and learning, self-reflection, acknowledging greatness, and support of the Northern Cass Community. They are driven towards continuous commitment.
 - What will your adults commit to doing every day in your school or district?
- Secret #2--Choose greatness
 - "Good is the enemy of Great" by Jim Collins
 - Retain faith that you will prevail in the end, regardless of the difficulties and at the same time confront the brutal facts of your current reality, whatever they might be.
 - What is your reality? Embrace vulnerability
 - Good to great--'The good-to-great companies are more likely hedgehogs--simple, dowdy creatures that know 'one big thing' and stick to it. The comparison companies are more like foxes--crafty, cunning creatures that know many things yet lack consistency' by Collins
 - Reduce and Connect your initiatives
 - Raise the level of urgency
 - Be relentless in your pursuit (right is right)
 - STOP COMPETING with OTHER SCHOOLS and START COMPETING with...YOURSELF!!!
 - Greatness--You have to choose to be great. Analogy of a bathroom attendant, he taught that you have to choose to be the greatest!
- Secret #3--Create Value and Be a 'Fred'
 - Fred Factor by Mark Sanborn
 - Everyone makes a difference: at the end of the day, you must ask yourself if you can make a difference; Don't be above doing anything you would ask other to do.
 - Everything is built on relationships: More than just saying hi, but getting to know who people are.
 - You must continually create value for others, and it doesn't have to cost a lot: Buy the book on Amazon and have staff pass it along to others, be creative.
 - Can you reinvent yourself? Choose your day!
- Secret #4--Acknowledge greatness
 - Nice Bike by Mark Scharenbroich. More than passing compliment, Nice Bike is a powerful, memorable principle that acts as a catalyst to help build stronger, more effective teams.
 - It is about finding ways to recognize ordinary people doing extraordinary things.

Implementing Innovation presented by *Tim Godfrey, Superintendent, and Lisa Amundson, Board President, Richland School District*

- Richland implemented District Wide PBL's--taking their time but is implementing PBL's
- District Leadership Team has purpose, but it is a shared leadership, sharing projects, all so teachers take ownership.
- The district received their training through Metro School Academy, but also use EdLeader 21, Buck Institute
- Carnivore Nation: bottom feeders drag down everyone, herbivore goes with the floor, but carnivores eat up everything, striving to attain highest level possible. What kind of an eater are we?
- PBL's support student engagement

- Presents opportunities for authentic investigation and presentations
- Lends to students' working and learning collaboratively
- Enables Students to be active learners. They take charge, ask questions, create public exhibitions
- PBL's teach that life is a challenge.
- You cannot touch a school without touching the culture of the surrounding community.
 - Understand policies, curriculum, and teaching methods
 - Time and Effort must be spent
 - Communicate often and in depth
 - Seek experts to help educate staff and public
 - Invest substantial resources into PD
 - Have a plan to educate new board members
 - Be prepared for push back
 - Be prepared to see some staff move on

Board/Superintendent Relationships and How They Impact Student Achievement presented by *Ed Massey*

- An engaged board is not very tolerated
- Start meeting with Pledge of Allegiance and National Anthem
- Good news items first--successes
 - Parent award
 - Teachers award--break the mold award
 - Academic awards
 - Sportsmanship awards
- Must be on grad level reading by 3rd grade or they won't graduate--National statistics
- If the plan doesn't work change the plan, NOT the goal--ever.
- People don't fear change, they fear loss
- Public education is not failing
- We have changing demographics today
- We need to engage: students, parents (usually to spend 2/3 of the time with the student), teachers, administrators, and boards

10 Things That Bug Us About Each Other presented by *Jim Johnston, NDSBA Board President, Aimee Copas, Executive Director of the ND Council of Educational Leaders, and Christi Schaeffbauer, President of the ND Association of School Business Managers*

- Communication is essential
- Understanding roles and responsibilities
- Critical to get feedback from all sides and bring that feedback to the meeting for discussion.
- We are to work at high levels with one main focus: WHAT IS BEST FOR KIDS?
- Business Manager reports to board, and has to follow up with board if sees that board policy is not being followed.
- Publicity must work as a team saying the same thing.
- Don't blind side other board members or superintendent
- Give business manager credit
- Superintendent, Business manager and board work for public
- Board members need to be prepared.