

## **CHAPTER 15.1-02 SUPERINTENDENT OF PUBLIC INSTRUCTION**

**15.1-02-01. Superintendent of public instruction - Qualifications.** The qualified electors of this state shall elect a superintendent of public instruction at the appropriate general election. The superintendent must be at least twenty-five years of age on the day of the election and have the qualifications of an elector for that office at all times during the superintendent's term of office.

**15.1-02-02. Salary.** The annual salary of the superintendent of public instruction is ninety-five thousand one hundred sixteen dollars through June 30, 2010, and ninety-nine thousand eight hundred seventy-two dollars thereafter.

**15.1-02-03. Appointment of assistant - Employment of personnel.** The superintendent of public instruction may appoint an assistant. The superintendent may also hire personnel or contract with other persons to perform the work of the department of public instruction.

**15.1-02-04. Superintendent of public instruction - Duties.** The superintendent of public instruction:

1. Shall supervise the provision of elementary and secondary education to the students of this state.
2. Shall supervise the establishment and maintenance of schools and provide advice and counsel regarding the welfare of the schools.
3. Shall supervise the development of course content standards.
4. Shall supervise the assessment of students.
5. Shall serve as an ex officio member of the board of university and school lands.
6. Shall keep a complete record of all official acts and appeals.
7. As appropriate, shall determine the outcome of appeals regarding education matters.
8. Shall direct school district annexation, reorganization, and dissolution and employ and compensate personnel necessary to enable the state board of public school education to carry out its powers and duties regarding school district annexation, reorganization, and dissolution.

**15.1-02-05. Federal government - Contracts.** The superintendent of public instruction may contract with an agency of the federal government:

1. For and on behalf of the department of public instruction.
2. For and on behalf of a school district with the consent of the school district board.

**15.1-02-06. Preservation of property.** The superintendent of public instruction shall provide for the preservation of all property that the superintendent acquires in an official capacity and which has educational interest and value or which records official acts by the superintendent. At the conclusion of the superintendent's term of office, the superintendent shall deliver the property to the superintendent's successor.

**15.1-02-07. Superintendent of public instruction - Lease of unused real property.**

1. The superintendent of public instruction may lease surplus portions of real property, including buildings and improvements, owned by the state and administered by the superintendent of public instruction at North Dakota vision services - school for the blind and the school for the deaf.
2. The superintendent may lease the unused portion of a building only after consultation with and adherence to conditions set by the administrator of the state fire and tornado fund.
3. A lease agreement under this section may not exceed five years.
4. A lease agreement under this section must provide that:
  - a. It is cancelable by the state without liability at the end of any state fiscal biennium; or
  - b. It is renewable at the sole discretion of the superintendent of public instruction at the beginning of each fiscal biennium.
5. The superintendent may set additional terms and conditions for leases under this section.
6. The attorney general shall review any lease under this section and approve its legal adequacy before its execution.
7. The superintendent may expend revenues from leases under this section only with legislative approval.

**15.1-02-08. Accounting and reporting system - Uniformity.** The superintendent of public instruction shall implement a uniform system for the accounting, budgeting, and reporting of data for all school districts in the state and for all regional education associations governed by chapter 15.1-09.1. The superintendent of public instruction shall designate the software standards to be used by the school districts and by the regional education associations in their accounting, budgeting, and reporting functions.

**15.1-02-09. School district finance facts report - Contents.** The superintendent of public instruction shall submit an annual report on the financial condition of school districts to the governor, legislative council, and the secretary of state by the end of February. The secretary of state shall transmit the report to the state archivist for official and public use. The report must include:

1. The number of school districts in the state.
2. The financial condition of each school district, including its receipts and expenditures.
3. The value of all property owned or controlled by each school district.
4. The cost of education in each school district.
5. The number of teachers employed by each school district and their salaries.
6. The number of students in average daily membership, in weighted average daily membership, and in average daily attendance, in each school district, the grades in which the students are enrolled, and, when applicable, the courses in which the students are enrolled.
7. Information regarding the state's approved nonpublic schools.

8. Other statistical data on public education in the state.

**15.1-02-10. School district finance facts report - Distribution.** The superintendent of public instruction shall make the annual school district finance facts report available to each member of the legislative assembly upon request. The superintendent shall provide eight copies of the report to the state library. The superintendent shall make the report available to the public on the superintendent of public instruction's web site.

**15.1-02-11. Superintendent of public instruction - Accreditation of schools - Rules.** The superintendent of public instruction may adopt rules governing the accreditation of public and nonpublic schools.

**15.1-02-12. Expiration of existing rules.** Any rule adopted by the superintendent of public instruction in a manner other than that set forth in chapter 28-32 is ineffective after October 31, 1999. For purposes of this section, "rule" includes any regulation, standard, guideline, statement, or policy that has the effect of law or which has either direct or indirect financial consequences for noncompliance.

**15.1-02-13. School district employee compensation report.**

1. Before September eleventh of each year, each school district shall report the following information to the superintendent of public instruction, with respect to each teacher and class of teachers and with respect to each administrator and class of administrators:
  - a. The number of days each was employed during the preceding school year.
  - b. The base salaries.
  - c. The amount of compensation provided for extended contracts.
  - d. The amount of compensation provided for cocurricular activities.
  - e. The amount expended for contract buyouts.
  - f. The amount of compensation provided in lieu of salaries.
  - g. The amount paid for signing bonuses.
  - h. The amount of compensation provided for substitute teaching and workload adjustment.
  - i. The amount of compensation provided for any other purposes.
  - j. The amount expended for health insurance benefits.
  - k. The amount expended for dental, vision, and cancer insurance benefits.
  - l. The amount expended for life and long-term disability insurance benefits.
  - m. The amount of retirement contributions and assessments, including individual shares if paid by the district.
  - n. The district's share of Federal Insurance Contributions Act taxes.
  - o. The amount of dues or membership fees paid by the district.
  - p. Any other benefits provided by the district.

2. In addition to the requirements of subsection 1, each school district shall also indicate:
  - a. Whether each teacher and administrator is employed on a full-time or a part-time basis.
  - b. The number of days used to determine the base salary of each teacher and administrator.
3. The superintendent of public instruction shall:
  - a. Compile the information required by this section in a manner that allows for accurate comparisons; and
  - b. Forward a copy of the compiled information to the governor and the legislative council.
4. The superintendent of public instruction may not expand the reporting requirements of this section.
5. If any school district fails without good cause to provide the information required by this section on or before September tenth and in the manner directed by the superintendent of public instruction, the superintendent shall withhold all state aid until the information is received.
6. For purposes of this section:
  - a. "Administrator" includes an individual who is employed by a school district in an administrative position and who is classified by the superintendent of public instruction as:
    - (1) A class 67 school district superintendent;
    - (2) A class 66 assistant or associate superintendent;
    - (3) A class 53 principal;
    - (4) A class 05 assistant principal;
    - (5) A class 29 director, including a special education director and a career and technical education director;
    - (6) A class 04 assistant director; and
    - (7) Any other individual whose position requires an administrator's credential.
  - b. "Teacher" means an individual, other than an administrator, who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and who is employed by the board of a school district in a position classified by the superintendent of public instruction as:
    - (1) A class 22 coordinator;
    - (2) A class 37 guidance counselor or school counselor;
    - (3) A class 38 guidance counselor designate;

- (4) A class 40 instructional programmer;
- (5) A class 41 library media specialist;
- (6) A class 56 pupil personnel service provider;
- (7) A class 59 school psychologist;
- (8) A class 62 speech-language pathologist;
- (9) A class 68 supervisor;
- (10) A class 70 teacher or special education teacher; or
- (11) A class 72 tutor in training.

**15.1-02-14. Duplicative payments - Transfer - Distribution.** If the superintendent of public instruction receives any federal or other moneys to pay programmatic administrative expenses for which the superintendent received a state general fund appropriation, the superintendent shall transfer the moneys to the state tuition fund. This section does not apply if the superintendent is required by federal law or by the terms of a grant to employ additional personnel.

**15.1-02-15. No Child Left Behind Act - Information required.** Whenever the superintendent of public instruction determines that any bill or amendment under consideration by an interim committee of the legislative management or by a standing committee or a conference committee of the legislative assembly contains a provision required by the No Child Left Behind Act of 2001 [Pub. L. 107-110; 115 Stat. 1425; 20 U.S.C. 6301, et seq.] or by federal regulations promulgated to implement that Act, the superintendent shall provide the members of the appropriate committee with the specific language of the No Child Left Behind Act which sets forth the requirement, together with the statutory citation for that language, or the specific language of the federal regulations which sets forth the requirement, together with the citation for the regulations.

**15.1-02-16. Superintendent of public instruction - Issuance of credentials to teachers and administrators.** The superintendent of public instruction may adopt rules governing the issuance of:

1. Credentials for teachers of driver's education;
2. Credentials for teachers of early childhood special education;
3. Credentials for elementary school principals;
4. Credentials for teachers of students who are emotionally disturbed;
5. Credentials for teachers of students who are gifted and talented;
6. Credentials for secondary school principals;
7. Credentials for library media;
8. Credentials for teachers of title I;
9. Credentials for teachers of students who are mentally retarded;
10. Credentials for teachers of students who are physically disabled;

11. Credentials for coordinators of programs for students with limited English proficiency;
12. Credentials for school counselors;
13. Credentials for special education directors;
14. Credentials for special education strategists;
15. Credentials for teachers of students who have specific learning disabilities;
16. Credentials for superintendents;
17. Credentials for teachers of students who have vision impairments;
18. Credentials for teachers of students who are deaf or hard of hearing; and
19. Certificate of completion for paraprofessionals.

**15.1-02-16.1. Teacher qualifications - Accreditation rules - Directives.** For purposes of accreditation, the superintendent of public instruction may not establish teacher qualification requirements that exceed those established by the education standards and practices board.

**15.1-02-17. State accountability plan - Legislative review.** Before the superintendent of public instruction may submit to the United States secretary of education any proposed changes in the state accountability plan required under the No Child Left Behind Act of 2001 [Pub. L. 107-110; 115 Stat. 1425; 20 U.S.C. 6301 et seq.], the superintendent shall present the proposed changes to the interim no child left behind committee. The committee shall review the proposed changes; accept testimony and documentary evidence regarding the impact of the proposed changes on the students, schools, school districts, and taxpayers of this state; and provide advice and recommendations regarding the proposed changes to the superintendent.

**15.1-02-18. Statewide longitudinal data system committee - Membership - Powers and duties - Report to interim committee - Continuing appropriation.**

1. The statewide longitudinal data system committee consists of:
  - a. The chancellor of the board of higher education or chancellor's designee.
  - b. The superintendent of public instruction or superintendent of public instruction's designee.
  - c. The chief information officer or chief information officer's designee.
  - d. The director of the department of career and technical education or the director's designee.
  - e. The director of job service North Dakota or the director's designee.
  - f. The commissioner of commerce or the commissioner's designee.
  - g. The director of the department of human services or the director's designee.
  - h. The director of the North Dakota educational technology council.
  - i. The director of the North Dakota council of educational leaders or the director's designee.

- j. The director of the North Dakota workforce development council or the director's designee.
  - k. Two members of the legislative assembly appointed by the chairman of the legislative management.
2. The governor shall appoint the chair of the committee. The committee may appoint advisory committees that would serve in an advisory capacity to the committee.
  3. The committee shall manage a longitudinal data system which:
    - a. Provides for dissemination of management information to stakeholders and partners of state education, training, and employment systems; and
    - b. Uses data from educational and workforce systems as central sources of longitudinal data.
  4. The information technology department, at the direction of the committee, shall maintain a statewide longitudinal data system among education, workforce, and training entities. The department and the committee may, subject to federal and state privacy laws, enter interagency agreements, including agreements designating authorized representatives of the educational agencies participating in the system pursuant to the Family Educational Rights and Privacy Act (FERPA) [20 U.S.C. 1232g; 34 CFR 99].
  5. The committee shall set policy and adopt rules relating to access to and the collection, storage, and sharing of information and the systems necessary to perform those functions, subject to applicable federal and state privacy laws and interagency agreements and restrictions relating to confidential information required to conform to applicable federal and state privacy laws. The committee shall provide operational oversight for information sharing activities and make recommendations for and provide oversight of information sharing budgets. The committee may authorize studies to benefit and improve workforce training and education.
  6. The committee shall provide a report to the information technology committee, interim committee on education issues, and interim committee on economic development on the status of the statewide longitudinal data system. The report must include recommendations for further development, cost proposals, proposals for legislation, and data sharing governance.
  7. The committee may solicit and receive moneys from public and private sources and those funds are appropriated on a continuing basis for the support of the longitudinal data system.
  8. The information technology department shall provide staff and other necessary support to the committee.

**15.1-02-19. Health insurance programs - Joint enrollment program.** The superintendent of public instruction and the department of human services jointly shall develop a system under which families of children enrolling in the public school system are provided with information regarding state and federally funded health insurance programs and encouraged to apply for such coverage if determined to be eligible.

**15.1-02-20. Education stabilization fund dollars - Notification of nonreplacement - Publication of notice.**

1. The superintendent of public instruction shall notify the superintendent and board of each school district in the state, by certified mail, that any education stabilization fund dollars received by the district as a result of the American Recovery and

Reinvestment Act of 2009 must be used first to restore funding deficiencies in the 2009-10 school year when compared to the 2005-06 school year and that any additional dollars received under the American Recovery and Reinvestment Act of 2009 must be used for one-time, nonrecurring expenditures because this state is not responsible for replacing that level of funding or otherwise sustaining that level of funding during the 2011-13 biennium.

2. During the thirty-day period following receipt of the notification, the superintendent of each school district shall arrange to publish the notice at least twice in the official newspaper of the district.