

**Montana School for the Deaf and Blind  
Great Falls, MT**

**May 10-11th, 2012**

**BOARD OF PUBLIC EDUCATION**

**BOARD OF PUBLIC EDUCATION**  
**MEETING AGENDA**

**May 10-11<sup>th</sup>, 2012**  
**Montana School for the Deaf and Blind**  
**Great Falls, MT**

**Thursday May 10<sup>th</sup>, 2012**  
**8:30 AM**

**CALL TO ORDER**

- A. Pledge of Allegiance
- B. Roll Call
- C. Statement of Public Participation
- D. Welcome Visitors

**PUBLIC COMMENT**

**CONSENT AGENDA**

- A. Correspondence
- B. March 8<sup>th</sup>, 2012 Minutes
- C. Financials

**ADOPT AGENDA**

**INFORMATION**

❖ **REPORTS – Patty Myers (Item 1)**

**Item 1**                      **CHAIRPERSON’S REPORT**  
**Patty Myers**

**BOARD OF PUBLIC EDUCATION APPEARANCES**  
**Patty Myers**

❖ **CSPAC LIASON – Sharon Carroll (Item 2)**

**Item 2**                      **EXECUTIVE SECRETARY/CSPAC REPORT**  
**Peter Donovan**

**ACTION**

**PUBLIC COMMENT**

*The public will be afforded the opportunity to comment before the Board on every action item on the agenda prior to final Board action.*

**CSPAC APPOINTMENT – JANICE BISHOP APPLICATION**

❖ **REPORTS – Patty Myers (Items 3-6)**

**Item 3**                      **STATE SUPERINTENDENT’S REPORT-2 NOMINATIONS TO MACIE**  
**State Superintendent Denise Juneau**

Item 4 COMMISSIONER OF HIGHER EDUCATION'S REPORT  
Commissioner Clayton Christian

Item 5 GOVERNOR'S OFFICE REPORT  
Dan Villa

Item 6 STUDENT REPRESENTATIVE'S REPORT  
Holly Capp

\*\*\*\*\*ACADEMIC BOWL: BOARD OF PUBLIC ED VS. MSDB STUDENTS\*\*\*\*\*

#### DISCUSSION

❖ MACIE LIASION – Doug Cordier (Item 7)

Item 7 MACIE UPDATE  
Norma Bixby

❖ EXECUTIVE COMMITTEE – Patty Myers (Items 8-11)

Item 8 BUS SAFETY/TRANSPORTATION REPORT  
Donnell Rosenthal

Item 9 UPDATE ON PROGRESS OF SCHOOLS IN INTENSIVE ASSISTANCE  
Teri Wing

Item 10 CHAPTER 55 TASK FORCE UPDATE – Patty Myers and Dennis Parman

Item 11 SUPERINTENDENT'S RECOMMENDATION FOR CHAPTER 55 APPROVAL  
Denise Juneau and Dennis Parman

❖ LICENSURE COMMITTEE Sharon Carroll (Item 12)

Item 12 SURRENDER OF EDUCATOR LICENSE CASE #2012-01 (CLOSED)  
Ann Gilkey

❖ ASSESSMENT COMMITTEE Sharon Carroll (Item 13)

Item 13 COST ANALYSIS ASSUMPTIONS FOR IMPLEMENTATION OF PROPOSED  
CHANGES TO ARM 10.56.101, STUDENT ASSESSMENT  
Judy Snow

#### ACTION

#### PUBLIC COMMENT

*The public will be afforded the opportunity to comment before the Board on every action item on the agenda prior to final Board action.*

❖ ACCREDITATION COMMITTEE John Edwards – (Item 14)

Item 14 INTENSIVE ASSISTANCE STEP 2 – BILLINGS PUBLIC SCHOOLS (BPS)  
Teri Wing, Jack Copps, BPS Superintendent, Teresa Stroebe, BPS Board of Trustees Chairperson

❖ ASSESSMENT COMMITTEE Sharon Carroll (Items 15)

Item 15 RECOMMEND APPROVAL TO PRODUCE THE NOTICE OF PUBLIC HEARING PERTAINING TO THE REVISIONS OF CHAPTER 56 STUDENT ASSESSMENTS  
Judy Snow

Item 16 BASE AID PAYMENT SCHEDULE  
Nancy Coopersmith

❖ LICENSURE COMMITTEE Sharon Carroll (Items 17-18)

Item 17 RECOMMEND APPROVAL OF NOTICE OF ADOPTION AND TIMELINE OF LICENSED EDUCATOR DISCIPLINE  
Ann Gilkey

Item 18 RECOMMEND APPROVAL OF NEW PROGRAM – BROADFIELD SCIENCE – ROCKY MOUNTAIN COLLEGE  
Linda Peterson, Dr. Barbara Vail, Director of Education and Associate Academic Vice President, Rocky Mountain College

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Friday May 11<sup>th</sup>, 2012  
8:30 AM

**ACTION**

**PUBLIC COMMENT**

*The public will be afforded the opportunity to comment before the Board on every action item on the agenda prior to final Board action.*

❖ LICENSURE COMMITTEE Sharon Carroll (Items 19-20)

Item 19 RECOMMEND APPROVAL OF NOTICE OF ADOPTION AND TIMELINE OF DANCE EDUCATION AREA OF PERMISSIVE SPECIALIZED COMPETENCY  
Linda Peterson

Item 20 RECOMMEND APPROVAL OF STATE EXIT REPORT OF THE FOCUSED ACCREDITATION REVIEW OF THE PROFESSIONAL EDUCATION UNIT AT MONTANA STATE UNIVERSITY-NORTHERN (MSU-N)  
Linda Peterson, Audrey Peterson, Focused Accreditation Review Team Chairperson, Carol Reifschneider, MSU-N Acting Dean of Education Arts and Sciences, and Nursing, Rosalyn Templeton, MSU-N Provost

❖ ACCREDITATION COMMITTEE John Edwards – (Items 21-23)

Item 21 RECOMMEND APPROVAL TO PRODUCE THE NOTICE OF PUBLIC HEARING PERTAINING TO THE REVISIONS OF CHAPTER 55 STANDARDS OF ACCREDITATION

Linda Peterson

- Item 22                    **RECOMMEND APPROVAL OF THE ADDENDUM TO 2011-12 FINAL ACCREDITATION STATUS**  
Teri Wing
- Item 23                    **RECOMMEND APPROVAL OF ALTERNATIVE TO STANDARDS REQUESTS**  
Teri Wing
- ❖ **MSDB LIAISON – Patty Myers (Item 24)**
- Item 24                    **MSDB REPORT**  
Steve Gettel, Kim Schwabe, Jim Kelly
- ❖ **EXECUTIVE COMMITTEE – Patty Myers (Items 25-26)**
- EXECUTIVE SESSION (CLOSED)**
- Item 25                    **MSDB SUPERINTENDENT PERFORMANCE EVALUATION (CLOSED)**  
Patty Myers
- Item 26                    **BPE EXECUTIVE SECRETARY PERFORMANCE EVALUATION (CLOSED)**  
Patty Myers

**PRELIMINARY AGENDA ITEMS – July 11-13<sup>th</sup>, 2012 Helena, MT**

Strategic Meeting – Review Bylaws & Operational Rules  
CSPAC/BPE Joint Meeting  
Annual CSPAC Report  
MACIE Update  
Annual GED Report  
Special Education Report  
Assessment Update  
Federal Update  
Accreditation Report

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## **CALL TO ORDER**

- A. Pledge of Allegiance**
- B. Roll Call**
- C. Statement of Public Participation**
- D. Welcome Visitors**

## **CONSENT AGENDA**

Items may be pulled from Consent Agenda if  
requested

- A. Correspondence**
- B. March 8<sup>th</sup>, 2012 Minutes**
- C. Financials**



# Board of Public Education

PO Box 200601  
Helena, Montana 59620-0601  
(406) 444-6576  
www.bpe.mt.gov

## BOARD MEMBERS

### APPOINTED MEMBERS:

March 19, 2012

Patty Myers - Chair  
Great Falls

Sharon Carroll - Vice Chair  
Ekalaka

Erin Williams  
Missoula

Lila Taylor  
Busby

Bernie Olson  
Lakeside

John Edwards  
Billings

Doug Cordier  
Columbia Falls

Holly Capp, Student Rep.  
Great Falls

### EX OFFICIO MEMBERS:

Sheila Stearns, Ed.D.  
Commissioner of  
Higher Education

Denise Juneau,  
Superintendent of  
Public Instruction

Brian Schweitzer, Governor

### EXECUTIVE SECRETARY:

Pete Donovan

Pat Williams  
3533 Lincoln Hills Pt  
Missoula, MT 59802

Dear Regent Williams,

On behalf of the Board of Public Education, I would like to congratulate you on your appointment to the Board of Regents. I can think of no more appropriate appointment. You have always been a friend of education and educators in the state. I well remember the speech that you gave in support of public education on September 13, 1982. I was sitting in the Speaker's Gallery at the US Capitol. I was so proud to say that you were "my congressman" and my friend. Thank you, again, for all that you have done and will continue to do. We appreciate your service.

The Board of Public Education greatly values its partnership with the Board of Regents and we look forward to working with you to further enhance the excellence of Montana's P-20 education system.

Sincerely,

A handwritten signature in cursive script that reads "Patty Myers".

Patty Myers  
Chairwoman



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Commissioner of  
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Denise Juneau,  
Superintendent of  
Public Instruction

Brian Schweitzer, Governor

### EXECUTIVE SECRETARY:

Pete Donovan

March 19, 2012

Regent Jeff Krauss  
508 Park Place  
Bozeman, MT 59715

Dear Regent Krauss,

On behalf of the Board of Public Education, I would like to congratulate you on your appointment to the Board of Regents. The Board of Public Education greatly values its partnership with the Board of Regents and we look forward to working with you to further enhance the excellence of Montana's P-20 education system.

Sincerely,

A handwritten signature in cursive script that reads "Patty Myers".

Patty Myers  
Chairwoman

**BOARD OF PUBLIC EDUCATION**  
**MEETING MINUTES**

**March 8, 2012**

**Montana State Capitol  
Room 152  
Helena, MT**

**March 8, 2012**  
**8:34 AM**

**CALL TO ORDER**

Chairperson Patty Myers called the meeting to order at 8:34 AM and led the group in the Pledge of Allegiance. Ms. Kris Stockton took roll call; a quorum was noted. Ms. Patty Myers read the Statement of Public Participation.

**PUBLIC COMMENT**

Ms. Angela Helvey was present to address the Board regarding a letter of reprimand placed in her file by the Board in 2007. Mr. Donovan gave a brief history on the case and then Ms. Helvey addressed the Board requesting the letter be removed from her file. Ms. Myers thanked Ms. Helvey for her comments.

**CONSENT AGENDA**

The consent agenda was approved and the minutes from the January 2012 meeting were approved. Ms. Myers requested the financials to be pulled from the Consent Agenda and an update on the Board financials would be given during her Item.

**Consent agenda approved as presented.**

Those in attendance included: Chair Ms. Patty Myers, Vice-chair Ms. Sharon Carroll, Board members Mr. John Edwards, Mr. Doug Cordier, Ms. Erin Williams, and student rep Ms. Holly Capp. Staff present included: Mr. Peter Donovan, Executive Secretary Board of Public Education/Administrative Officer, Certification Standards and Practices Advisory Council; and Ms. Kris Stockton, Administrative Assistant, Board of Public Education. Ex-officio members present included: State Superintendent, Denise Juneau. Visitors in attendance included: Dr. Linda Vrooman Peterson, Accreditation Division Administrator, OPI; Mr. Dennis Parman, Deputy Superintendent, OPI; Denise Ulberg, OPI, Elizabeth Keller, OPI, Ann Gilkey, OPI, Nancy Hall, Terri Wing, OPI, Angela Helvey.

**INFORMATION**

**Item 1**

**CHAIRPERSON'S REPORT - Patty Myers**

- MSDB Board Meeting, Jan 4, 2012
- Chapter 55 Leadership Conference Call, Jan 11, 2012
- Board of Public Education Meeting, Jan 20, 2012
- MSDB Meeting, Jan 24, 2012
- Variances to Standards Sub Committee, Jan 25, 2012
- Chapter 55 Task Force Meeting, Jan 30-31, 2012
- Legislative Audit Entrance Meeting Feb 1, 2012
- Chapter 55 Leadership Meeting, Feb 6, 2012
- MSDB Foundation Function, Feb 20, 2012
- Chapter 55 Leadership Conference Call, Feb 21, 2012
- MSDB Conference Call, Feb 22, 2012

- MSDB Accreditation Reception, Feb 26, 2012
- Chapter 55 Task Force Meeting Feb 28-29, 2012
- Board Budget Meeting Feb 29, 2012

## **BOARD OF PUBLIC EDUCATION APPEARANCES**

### **Sharon Carroll**

- Smarter Balance Assessment Webinar Jan 5, 2012
- Board of Public Education Meeting Jan 20, 2012
- Smarter Balance Assessment Webinar Feb 9, 2012

### **Bernie Olson**

- MSDB Conf Call Jan 4, 2012
- Board of Public Education Meeting Jan 20, 2012
- MSDB Call Feb 22, 2012

### **Lila Taylor**

- MSDB Conf Call Jan 4, 2012
- Board of Public Education Meeting Jan 20, 2012
- MSDB Call Feb 22, 2012

### **Doug Cordier**

- Board of Public Education Meeting Jan 20, 2012
- Columbia Falls School District Meeting Feb 13, 2012

Ms. Myers reported on the Accreditation review at the MSDB which was recently completed. She updated the Board on the Chapter 55 Task Force work she has been involved with and that the Task Force and sub committees have been very busy. Mr. Cordier brought up the topic of his local School Board being told that the Chapter 55 work had been suspended and asked if anyone else had heard the same rumors. Ms. Myers indicated it was suspected that the information had been sent out in the Montana Rural Education newsletter. Ms. Myers indicated that the Chapter 55 revisions could be brought before the Board as soon as the May 2012 meeting. Mr. Cordier asked if it is necessary for the Board to send out any information dispelling the rumors, but Ms. Myers indicated she thought it better to just ignore them. Superintendent Juneau asked if Ms. Myers had received any comments regarding the Common Core and Ms. Myers noted that with the implementation cost figures being less than expected and with Regent MacLean reporting that the Anaconda curriculum change to mirror Common Core was seamless and inexpensive, that information had been helpful. Great Falls Public School District is estimating a \$3 million cost and Ms. Myers has been working with GFPSD and Representatives to determine their estimate and how it is being derived. Superintendent Juneau commented she had heard some rumblings from Billings but otherwise, nothing other than possible need for more professional development for teachers. Ms. Carroll noted that Chapter 55 requires professional development, so school districts already have an obligation to comply with that requirement. Ms. Carroll also discussed Common Core in relation to her own math classes and gave a brief example of how the literacy component might be addressed in the math classroom. Superintendent Juneau noted that some school districts are getting the word out about Common Core. Ms. Myers reminded members to let Ms. Stockton know of any events they attend on behalf of the Board to be listed on the Board calendar.

### **Item 2 EXECUTIVE SECRETARY/CSPAC REPORT – Pete Donovan**

Mr. Donovan reported that CSPAC adopted the new Montana Educator's Code of Ethics at the January 27, 2012 CSPAC meeting. The new Code of Ethics has been well received by the teacher prep programs and some are already using it in their programs. The April 2012 CSPAC meeting will address the CSPAC appointments that are coming open. Member Jon Runnalls K-8 term is coming open and he has informed Mr. Donovan that since he is retiring at the end of this school year he will not seek reappointment. Ms.

Janice Bishop's position will be open and she is applying for reappointment. The Trustee position is open as well, having been vacated by Ms. Dianne Burke. Mr. Donovan discussed that the Board is undergoing their semi-annual Legislative Audit. The auditor is currently doing field work and will revisit the office in April for completion of the field work. Mr. Donovan also discussed his recent attendance at the Board of Regents meeting in Dillon and the retirement reception for outgoing Commissioner Dr. Sheila Stearns. Mr. Donovan also commented on the two new Regents appointed to the Board. Superintendent Juneau agreed that the retirement reception for Commissioner Stearns was very nice and that there were some very nice tributes to her. Mr. Donovan announced that he will be trying to attend more Board of Regents meetings in the future. Ms. Williams gave her support for that. Ms. Myers also noted Ms. Carroll's reappointment to the Board of Public Education.

## **REPORTS**

### **Item 3 State Superintendent Report – Ms. Denise Juneau**

Superintendent Juneau updated the Board on her recent travels and announced that the week of March 5-9<sup>th</sup> is National School Breakfast Week. She discussed the Graduation Matters Montana grant from the Washington Foundation and that applications are currently being accepted and must be in by March 19<sup>th</sup>. The Bully Free Schools group is currently working on policies which schools can adopt. There will be lots of information for parents and students. GEMS Update: The system went into production on March 2, and was shown at the Board of Regents meeting. The Quality Educator Loan Repayment Assistance Program is currently accepting applications and the deadline for those applications is in April. Many schools will be conducting CRT tests in March. The Farm to School program will have a Student Advisory Board meeting in April.

### **Item 4 Commissioner of Higher Education Report**

No one from the Commissioner's Office was available to report

### **Item 5 Governor's Office Report**

No one from the Governor's Office was available to report

### **Item 6 Student Representative Report – Ms. Holly Capp**

Ms. Capp discussed the dual enrollment accounting class she is currently taking. She also informed the Board that the School Improvement Committee has been discussing the dropout rate and asked for clarification on the exact definition of "dropout". She briefly touched on the KONY 2012 movie and the social frenzy surrounding it for young adults. On March 18<sup>th</sup> interviews will be conducted for the new student representative. 3 candidates will be interviewed – 1 from Helena and 2 from Great Falls. Ms. Capp will be going to Billings for State BPA meeting and National DECA is coming up in the near future.

## **DISCUSSION**

### **Item 7 MACIE UPDATE – Norma Bixby**

No report.

## **EXECUTIVE COMMITTEE**

### **Item 8 FEDERAL UPDATE – Nancy Coopersmith, OPI**

Dr. Linda Peterson from OPI gave the Federal Update in place of Ms. Coopersmith. Dr. Peterson briefly walked through the budget numbers. She stated that nearly half of the budget for OPI comes from Federal funding. In addition, Dr. Peterson discussed programs, budget proposals, and proposed budget cuts at the Federal level, all of which is mostly speculation until the President's budget comes out. She clarified the difference in the Federal fiscal year which begins Oct 1<sup>st</sup> of each year, and the state fiscal year, which begins on July 1<sup>st</sup> of each year. Dr. Peterson emphasized that the suggested cut of programs by 100% that is currently being suggested in the President's budget is believed to be more of a warning

and that due to 2012 being an election year, much of that could change. The proposed cut would equal \$9 million for Montana at the elementary and secondary level.

10:20 meeting adjourned briefly to allow Ms. Myers, Ms. Carroll, and Mr. Donovan to attend the LFC meeting to present the Board budget request.

11:17 meeting re-convened

**Item 9                    BUS SAFETY/TRANSPORTATION REPORT – Denise Ulberg, Donnell Rosenthal, OPI**

Ms. Ulberg presented the Bus Safety/Transportation Report at the request of Board member Edwards as an extension of the same item from the January meeting. The presentation covered seatbelt safety on yellow school buses and over the road coaches vs. yellow school buses. Regarding the issue of seatbelt safety, Ms. Ulberg discussed that new national safety requirements for Type A (under 10,000 lbs) buses require seatbelts as of 10/1/2011, but Type B (over 10,000 lbs) buses do not require seatbelts – that issue is optional. Montana does not have any state laws requiring seatbelts on buses; however the Helena School District recently adopted a new law requiring seatbelts on all their yellow school buses. Mr. Edwards asked what authority, if any, the Board has to make a ruling on seatbelts on buses. Ms. Ulberg answered that it would have to be placed in law. She did not think that the standards can require that. The Board has jurisdiction over yellow school buses in home to school transport, but not when they are used for school activities. Mr. Edwards then asked if there have been any studies done regarding seatbelts on yellow school buses or has anyone in MT done a study, or is there anything the Board can do? Ms. Ulberg replied there has not been a study done. She added that Mr. Bob Vogel had asked that he be included in any discussions pertaining to this issue. The Department of Transportation should also be included. She added that one issue she was aware of was the topic of “cost”, more specifically “cost vs. effectiveness/benefit”. Mr. Edwards added that the idea of a Task Force was something he would be interested in. Ms. Ulberg then discussed that the Board’s jurisdiction does not extend to activity trips and whether or not a school district uses a yellow school bus or over the road coach for activities. The Department of Transportation has jurisdiction on over the road carriers owned by contractors but only for inspections. Some school districts own their own charter buses and the Department of Transportation does not have jurisdiction over the inspection on those buses. The bus must be inspected by a weigh station or the Department of Transportation will do the inspection upon the request of the school district. Mr. Edwards asked who makes the decision as to whether a yellow school bus or over the road bus will be used for activities and Ms. Ulberg answered that decision is made locally, by the School Board or Trustees. Superintendent Juneau asked who owns the ARM rules for buses and Ms. Ulberg answered that the Board owns the ARM rules regarding yellow school buses, but that the Department of Transportation owns the ARM rules for over the road coaches. Superintendent Juneau then asked what the difference was between district owned buses and contracted buses. Ms. Ulberg replied that the Board owns the rules only for yellow school buses in home to school transport whether the district owns the buses or they are contracted out, but they do not regulate bus use for activities. Yellow school bus safety for home to school transport is state law. Ms. Carroll asked if the Board could change the ARM rules to include activity trips and Ms. Ulberg answered that state law would have to be changed to dictate the Board having that jurisdiction. Ms. Myers asked if vans could be used or if they had the same requirements and Mr. Parman answered that vans could not be used. Ms. Williams commented that safety is really the biggest issue of concern. Mr. Parman added that forming a Task Force to look at the issue is a good idea, but that it will be a huge issue as there are issues regarding cost, replacement, retro-fitting. Mr. Edwards asked what percentages of yellow school buses are contracted by districts and Ms. Ulberg answered that a 2012 report had a total of 2,872 buses and approximately 1,600 were contracted. Mr. Edwards inquired how much school districts pay for their contracts and what negotiations are made for per mile/per hour compared to what other school districts contract for? No definitive answer was given. Superintendent Juneau then added that Ms. Ulberg has accepted a job at another office and will be leaving the OPI. It was determined that more clarification is needed before a Task Force can be determined and that it should be a joint venture between the Board and OPI.

## **ASSESSMENT COMMITTEE**

### **Item 10 ASSESSMENT UPDATE – Judy Snow, OPI**

Ms. Snow handed out an informational sheet. She talked about the ACT Plus Writing assessment which is now available to all high school juniors as a pilot program for the 2011-12 school year. To date, 51 schools have signed on to the pilot program. Three people are designated at each school who will be involved in training and preparation for the tests. Resources for the test are available on the OPI and the ACT website. Webinar training is also available. The tests will be given April 24<sup>th</sup> and will be during the school day, with May 8<sup>th</sup> scheduled as the makeup date. The 2011-12 year is the pilot year with implementation set for the 2012-13 school year pending a rule change request to the Board from OPI. OPI is beginning that process currently. The program is funded through the new grant received by GEAR UP. Ms. Carroll stated that it is likely the previous language regarding tests that is currently in rule will need to be cleaned up and changed with regard to testing. Ms. Snow added that ACT allows for special accommodations for test taking and Mr. Cordier asked for an example of the state accommodations available for students through the ACT. Ms. Snow said it is difficult to do since ACT has so many different accommodations, but that some examples would be; providing a scribe, having the test read to a student, allowing extra time for students with an IEP or a 504 plan. Mr. Cordier then asked if there is anticipated fallout from all juniors taking the test that state scores might drop initially but then go up. Ms. Snow said that she did have some information and would send it out to the Board. Ms. Snow discussed that this is the 3<sup>rd</sup> year of using the pilot program for on line writing programs. Best practices are currently being written for this program. She then gave an update on the Assessment Conference in Helena in January. 280 people registered and 220 attended. New to the conference this year were pre-sessions highlighting Common Core, ACT + Writing, and the English language proficiency test. The CEO of the Smarter Balance Consortium was the keynote speaker which was very successful as was the presentation on the new GEMS system. A short update on the Smarter Balance Consortium was given. They have a new website with monthly updates and Dr. Bobbie Evans from University of Montana is the Higher Education Rep. Ms. Carroll asked if any discussions were going on regarding moving CRT tests to another time of the year. Mr. Parman answered that tests will eventually move to being computer generated and given later in the school year.

## **ACCREDITATION COMMITTEE**

### **Item 11 2011-12 ANNUAL ACCREDITATION REPORT – Terri Wing, OPI**

Ms. Wing presented the Annual Accreditation Report to the Board. Ms. Wing gave examples of how a recommendation is given to a school. A non-licensed teacher is an automatic deficiency, but there are other statuses that can occur several times before a deficiency status is given. Annual Data Collection is done for each school and cross checks are performed to check for licensure, mis-assigned teachers, and non-licensed teachers. Ms. Wing displayed a graph that showed a 5 year history of accreditation in Montana which showed that overall, deficiency rates are improving. When analyzed the graph showed the following: Elementary schools improved by 6%, middle schools by 21% and high schools by 12%. High schools have more mis-assigned teachers than elementary or middle schools. Ms. Wing announced that nearly 110,000 students are enrolled at regularly accredited schools in Montana. Ms. Wing noted that two of the state funded schools have regular accreditation status, 2 are accredited with deviation, and 1 with a deficiency. A discussion ensued regarding some clarification of Department of Corrections schools and the MSDB deficiencies. Ms. Wing then continued her presentation by highlighting Butte and Missoula. These two districts have improved their status. Ms. Wing then discussed that Library and Counseling continue to be areas where schools are experiencing deficiency statuses. Non-licensed teachers' statistics have continued to improve down to only 19 in 2011-12 but Ms. Wing indicated schools could still improve in that area. Ms. Wing discussed that non-licensed teachers are typically previously licensed in another state, retirees, or teachers who have let their license lapse but are now teaching again. In addition Ms. Wing stated that classroom overload is also a trend that is increasing.

**Item 12            PROGRESS REPORT OF THE CHAPTER 55 TASK FORCE – Dennis Parman, OPI**

Mr. Parman reported to the Board on the progress to date of the Chapter 55 Task Force. He highlighted meeting “successes” from the most recent meeting February 28-29<sup>th</sup> in Helena, topics yet to be completed, and topics still to be addressed by the Task Force. A discussion ensued regarding the school counselor section of the Chapter 55, counselor to student ratio, and that guidelines are currently being met, but maybe not at all schools. Ms. Carroll asked a question relating to school hours and that the proposed new standards are for fewer hours, from her interpretation, and asked for clarification. Mr. Parman explained that the process is being driven by the 4-day school week and that formerly standards were for 8100 minutes/year or 6 class periods/day, now standards are for 7200 minutes/year or 5 class periods/day. Ms. Carroll stated that she thinks some schools may offer the “minimum of the minimums”. How will that be monitored? Mr. Parman answered that OPI collects that data and it is enough to monitor what schools are doing. He also stated that schools moving to 4 day school weeks may not actually save as much money as they think. Ms. Carroll expressed concern regarding small schools offering 3 years of math. Mr. Parman noted that decision is up to the schools. Mr. Cordier asked for clarification of high school graduation requirements and can 8<sup>th</sup> grade students take Algebra I for high school credit and who controls it? Mr. Parman answered that “yes”, they can take it for credit and that it is a local control issue. Mr. Parman stated that the timeline for the Board to take action on the new Chapter 55 Standards would be at the September 2012 meeting with standards becoming effective July 2013.

**Item 13            RECOMMEND FORMAT CHANGE FOR ARM 10.53 AND 10.54 CONTENT STANDARDS – Linda Peterson, OPI**

Ms. Peterson gave a recommendation to the Board that with the adoption of the Common Core Standards that the content standards be moved to a grade by grade format rather than a periodic format. With the Next Generation Science Standards being worked on and Social Studies Standards coming up next, grade by grade standards will be necessary for all areas. Ms. Myers agreed that this process would be more helpful for teachers. Ms. Williams asked Ms. Peterson if she thought there would be any arguments against it and Ms. Peterson answered that there have really been no arguments other than just the general change of standards itself.

**Item 14            REPORT ON CORRECTIVE PLANS SUBMITTED BY SCHOOLS RECEIVING ADVICE OR DEFICIENCY ACCREDITATION STATUS FOR THE 2010-11 SCHOOL YEAR – Terri Wing, OPI**

Ms. Wing presented the report on Corrective Plans from schools in Advice or Deficiency status for the 2010-11 school year. Ms. Wing noted this is a new report that has not been presented before but will be something ongoing in the future as well. Schools receiving an Advice or Deficiency status are required to submit corrective plans to the OPI by June 1<sup>st</sup>. Ms. Wing briefly explained the report to the Board and how to read it. The report shows schools with a corrective plan for the 2010-11 year and if they still are in that status for the 2011-12 year. Ms. Wing noted that 65 districts are listed in the report. There are 59 out of 419 public schools and 6 out of 14 non public schools that have been cited for the same deviation in the past 2 reports. She is trying to refine the process and get to the “worst case scenarios” first and work with those schools. Ms. Wing indicated that she will be visiting each of the schools listed in the report by the May 2012 Board meeting and will update the Board at that time.

**LICENSURE COMMITTEE**

**Item 15            NOTIFICATION OF LICENSE SURRENDER – Ann Gilkey, OPI**

Ms. Gilkey presented a license surrender for James Michael Evans who is surrendering his license based on advice from counsel.

## ACTION

### PUBLIC COMMENT

*The public will be afforded the opportunity to comment before the Board on every action item on the agenda prior to final Board action.*

No public comment.

#### **Item 16 RECOMMEND APPROVAL OF THE 2011-12 FINAL ACCREDITATION STATUS – ALL SCHOOLS – Terri Wing, OPI**

Ms. Wing addressed the Board asking for approval of the 2011-12 Final Accreditation Report presented earlier in Item 11. Ms. Myers asked what would happen if an error was found in the report and Ms. Wing answered that a request would be made before the Board for a revision to the report.

**Mr. John Edwards moved to approve the 2011-12 Final Accreditation Status – All Schools; Ms. Erin Williams seconded the motion.**

***No discussion. Motion passed unanimously.***

#### **Item 17 RECCOMENDATION OF ALTERNATIVE TO STANDARDS REQUESTS – Teri Wing**

Ms. Wing presented Alternative to Standards Requests from the following schools: Polson High School – Library/Media Services, Swan Valley – Library/Media Services, Quentin Brown Primary School – Counseling, and Pine Creek Elementary – Counseling. Ms. Wing asked the Board for approval of all Alternative to Standards Requests.

**Mr. John Edwards moved to approve the Recommendation of Alternative to Standards Requests; Mr. Doug Cordier seconded the motion.**

***No discussion. Motion approved unanimously.***

## DISCUSSION

### MSDB Liaison

#### **Item 18 MSDB Committee Meeting Report – Mr. Bernie Olson**

Ms. Myers gave the MSDB report in the absence of Ms. Taylor and Mr. Olson. Ms. Myers noted that at the last MSDB meeting the committee discussed school enrollment, the open position for the Outreach Director, newly received accreditation of the school, and the disparity between pay of MSDB teachers and Great Falls Public School teachers.

- **RECOMMEND ADOPTION OF THE MSDB 2012-13 ACADEMIC CALENDAR**

**Ms. Carroll moved to adopt the MSDB 2012-13 Academic Calendar, Mr. Edwards seconded the motion.**

***No discussion. Motion passed unanimously.***

- **RECOMMEND ADOPTION OF MSDB POLICY 5124 – SIGN LANGUAGE SKILL LEVEL STANDARDS**

**Ms. Carroll moved to adopt the MSDB Policy 5124-Sign Language Skill Level Standards, Mr. Cordier seconded the motion.**

*No discussion. Motion passed unanimously.*

- **RECOMMEND ADOPTION OF MSDB POLICY 4410 – COMMUNITY RELATIONS**

***Ms. Carroll moved to adopt the MSDB Policy 4410-Community Relations, Mr. Edwards seconded the motion.***

*No discussion. Motion passed unanimously.*

**PRELIMINARY AGENDA ITEMS – MAY 10-11, 2012 MEETING**

CSPAC Appointments  
Student Representative Last Meeting  
BASE Aid Payment Schedule – C  
Assessment Update  
Alternative to Standards Request & Renewals  
MACIE Update  
Federal Update

\*C = Consent Agenda

**Meeting Adjourned at 3:48 pm**

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*The Montana Board of Public Education is a Renewal Unit Provider. Attending a Board of Public Education Meeting may qualify you to receive renewal units. One hour of contact time = 1 renewal unit up to 4 renewal units per day. Please complete the necessary information on the sign-in sheet if you are applying for renewal units.*

ELAPSED TIME YTD: 75%  
 BALANCE  
 400.00  
 400.00  
 400.00

ESTIMATE RECOGNIZED  
 400.00  
 400.00  
 400.00

PART-B BUDGET REVENUE ACCOUNT SUMMARY  
 ACCOUNT FUND PROG  
 512030 Accommodations Tax 01100 2012  
 TOTAL FUND 01100 General Fund  
 TOTAL PROGRAM 2012  
 TOTAL PART-B BUDGET REVENUE ACCOUNT SUMMARY

PART-A ACTUAL EXPENSE ACCOUNT SUMMARY		CURRENT MONTH	CURRENT YEAR	CM PRIOR YR	PRIOR YEAR	ELAPSED TIME YTD: 75%
FUND	ACCOUNT	495.40				CURR+PRIOR
01100	Regular	29,249.97	29,249.97			29,249.97
01100	Termination Pay - Sick Leave	33,250.64	33,250.64			33,250.64
01100	Termination Pay - Vacation	29,697.77	29,697.77			29,697.77
01100	Compensatory Time Taken	1,861.53	1,861.53			1,861.53
TOTAL	61100 Salaries	495.40	94,059.91			94,059.91
01100	Per Diem	150.00	150.00			150.00
01100	FICA	35.19	4,283.96			4,283.96
01100	Retirement - Other	561.62	561.62			561.62
01100	Group Insurance	65.98	4,115.83			4,115.83
01100	Workers Compensation Insur	4.84	942.18			942.18
01100	State Fund Dividend-NONBUDG	57.74	57.74			57.74
01100	State Unemployment Tax	1.74	329.22			329.22
01100	Teachers Retirement	48.80	65,027.60			65,027.60
TOTAL	61400 Employee Benefits	156.55	75,202.67			75,202.67
TOTAL	61000 Personal Services	651.95	169,412.58			169,412.58
01100	Insurance & Bonds	298.50	298.50			298.50
01100	Warrant Writing Services	32.95	32.95			32.95
01100	HRIS Service Fees	319.50	319.50			319.50
01100	Workers' Comp Program Fees	29.00	29.00			29.00
01100	SABHRS Administrative Costs	349.89	349.89			349.89
01100	General	6,680.00	6,680.00			6,680.00
01100	ITSD Application Hosting Servi	0.50	0.50			0.50
01100	ITSD Email Services	46.31	46.31			46.31
01100	ITSD Operational Support Servi	7.13	7.13			7.13
01100	ITSD Enterprise Services	95.96	767.68			767.68
TOTAL	62100 Other Services	106.65	8,531.46			8,531.46
01100	Photo & Reproduction	10.13	161.34			161.34
01100	Ofc Supplies/Central Stores	115.47	115.47			115.47
01100	Office Sup/Minor Equip-NonStat	137.00	137.00			137.00
01100	Program Expense	56.57	509.43			509.43
01100	ITSD Asset Broker	79.76	638.12			638.12
TOTAL	62200 Supplies & Materials	146.46	1,561.36			1,561.36
01100	Postage & Mailing	23.78	782.71			782.71
01100	Cellular Phones	459.22	459.22			459.22
01100	ITSD Voice Services	37.44	338.11			338.11
01100	ITSD Network Services	241.92	1,924.98			1,924.98
01100	ITSD Long Distance Services	10.81	35.77			35.77
TOTAL	62300 Communications	313.95	3,540.79			3,540.79
01100	In-State Personal Car Mileage	144.10	144.10			144.10
01100	In-State Meals	17.00	28.00			28.00
01100	In-State Lodging	82.39	176.48			176.48
01100	Commuter Allowance	3.75	3.75			3.75
01100	Non-Employee In State Mileage	1,348.60	6,416.51			6,416.51
01100	Non-Employee In State Meals	229.00	1,131.00			1,131.00
01100	Non-Employee In-State Lodging	981.10	4,438.47			4,438.47

PART-A ACTUAL EXPENSE ACCOUNT SUMMARY			
ACCOUNT	FUND	CURRENT MONTH	CURRENT YEAR
TOTAL 62400 Travel		2,802.19	12,338.31
62528 Rent-Non Dept of Admin	01100		3,925.02
62768 Property Management Expenses	01100		67.76
62802 Subscriptions	01100		44.97
62809 Education/Training Costs	01100		105.00
62817 Meetings/Conference Costs	01100		25.00
62878 Parking Fees	01100	622.72	2,404.16
62888 Statewide Indirect Costs	01100		802.50
TOTAL 62800 Other Expenses		622.72	3,381.63
TOTAL 62000 Operating Expenses		3,991.97	33,346.33
69301 Principal - Leases	01100	74.24	732.85
69302 Interest - Leases	01100		9.55
TOTAL 69300 Capital Leases		74.24	742.40
TOTAL FUND 01100 General Fund		4,718.16	203,501.31
TOTAL PART-A ACTUAL EXPENSE ACCOUNT SUMMARY		4,718.16	203,501.31

PART-B BUDGET EXPENSE ACCOUNT SUMMARY			
ACCOUNT	FUND	PROG SUB-CLS	BUDGET
61000 Personal Services	01100	2012 235H1	172,528.00
62000 Operating Expenses	01100	2012 235H1	43,245.00
69000 Debt Service	01100	2012 235H1	891.00
TOTAL SUB-CLS 235H1 ADMINISTRATION			216,664.00
TOTAL FUND 01100 General Fund			216,664.00
TOTAL PROGRAM 2012			216,664.00
TOTAL PART-B BUDGET EXPENSE ACCOUNT SUMMARY			216,664.00

PART-C CURR MONTH DETAIL EXPENSE TRANSACTIONS			
ACCNT	JRNL-ID	DATE	JRNL-LN DESCRIPTION
61101	PAY2317281	03/06/2012	000003 PPE 02/24/12 LD1 ON-CYCLE
61101	PAY2323104	03/20/2012	000003 PPE 3/9/12 LE1 ON-CYCLE
TOTAL	61101	Regular	
61401	PAY2317281	03/06/2012	000005 PPE 02/24/12 LD1 ON-CYCLE
61401	PAY2323104	03/20/2012	000005 PPE 3/9/12 LE1 ON-CYCLE
TOTAL	61401	FICA	
61403	PAY2317281	03/06/2012	000008 PPE 02/24/12 LD1 ON-CYCLE
61403	PAY2323104	03/20/2012	000008 PPE 3/9/12 LE1 ON-CYCLE
TOTAL	61403	Group Insurance	
61404	PAY2317281	03/06/2012	000010 PPE 02/24/12 LD1 ON-CYCLE
61404	PAY2323104	03/20/2012	000010 PPE 3/9/12 LE1 ON-CYCLE
TOTAL	61404	Workers Compensation Insur	

ELAPSED TIME YTD:	75%	CURR+PRIOR	12,338.31
PRIOR YEAR	CM PRIOR YR	EXPENDED	BALANCE
3,925.02		169,470.32	3,057.68
67.76		33,346.33	9,898.67
44.97		742.40	148.60
105.00		203,559.05	13,104.95
25.00		203,559.05	13,104.95
2,404.16		203,559.05	13,104.95
802.50		203,559.05	13,104.95
3,381.63		203,559.05	13,104.95
33,346.33		203,559.05	13,104.95
732.85		203,559.05	13,104.95
9.55		203,559.05	13,104.95
742.40		203,559.05	13,104.95
203,501.31		203,559.05	13,104.95
203,501.31		203,559.05	13,104.95

AMOUNT	VCHR-ID	VENDOR NAME
247.70		
247.70		
495.40		
17.59		
17.60		
35.19		
32.99		
32.99		
65.98		
2.42		
2.42		
4.84		

PART-C	CURR	MONTH	DETAIL	EXPENSE	TRANSACTIONS	JRNL-ACCNT	JRNL-DESCRPTION	DATE	JRNL-LN	DESCRIPTION	AMOUNT	VCHR-ID	VENDOR NAME
61410	PAY2317281	03/06/2012	000012	PPE	02/24/12	LD1	ON-CYCLE				0.87		
61410	PAY2323104	03/20/2012	000012	PPE	3/9/12	LE1	ON-CYCLE				0.87		
TOTAL	61410	State Unemployment Tax									1.74		
62113	0002318075	03/07/2012	000001	Warrant Writing Services							24.40		
621B5	0002321492	03/15/2012	000002	ITSD EMail Services							24.40		
621C5	0002321492	03/15/2012	000004	ITSD Enterprise Services							48.80		
62212	ACC2323980	03/21/2012	000005	Expense Distribution							4.90		
62280	ACC2326262	03/28/2012	000007	Expense Distribution							5.79		
62280	ACC2326262	03/28/2012	000009	Expense Distribution							95.96		
TOTAL	62280	Program Expense									10.13	00002589	USBANCORP EQUIPMENT FINANCE INC
622B1	0002321492	03/15/2012	000001	ITSD Asset Broker							35.17	00002592	BRESNAN COMMUNICATIONS LLC
62304	0002325983	03/28/2012	000001	Postage & Mailing							21.40	00002593	LEHRKINDS INC
623B0	0002318073	03/07/2012	000003	ITSD Voice Services							56.57		
623B2	0002321492	03/15/2012	000003	ITSD Network Services							79.76		
623B4	0002318073	03/07/2012	000001	ITSD Long Distance Services							23.78		
62401	ACC2317882	03/06/2012	000003	Expense Distribution							37.44		
62407	ACC2317882	03/06/2012	000004	Expense Distribution							241.92		
62408	PRO2326515	03/21/2012	000001	BEST WESTERN OF DILLON							10.81		
62489	ACC2320837	03/13/2012	000025	Expense Distribution							144.10	00002582	PETER DONOVAN
62489	ACC2320837	03/13/2012	000026	Expense Distribution							17.00	00002582	PETER DONOVAN
62489	ACC2320837	03/13/2012	000027	Expense Distribution							82.39		
62489	ACC2320837	03/13/2012	000028	Expense Distribution							541.20	00002587	SHARON CARROLL
62489	ACC2320837	03/13/2012	000027	Expense Distribution							262.90	00002588	JOHN EDWARDS
62489	ACC2320837	03/13/2012	000028	Expense Distribution							127.60	00002586	ERIN WILLIAMS
62489	ACC2320837	03/13/2012	000029	Expense Distribution							221.10	00002585	DOUGLAS CORDIER
62489	ACC2320837	03/13/2012	000030	Expense Distribution							97.90	00002584	HOLLY CAPP
TOTAL	62489	Non-Employee In State Mileage									97.90	00002583	PATTY MYERS
62490	ACC2320837	03/13/2012	000031	Expense Distribution							1,348.60		
62490	ACC2320837	03/13/2012	000032	Expense Distribution							35.00	00002588	JOHN EDWARDS
62490	ACC2320837	03/13/2012	000033	Expense Distribution							69.00	00002587	SHARON CARROLL
62490	ACC2320837	03/13/2012	000034	Expense Distribution							23.00	00002586	ERIN WILLIAMS
62490	ACC2320837	03/13/2012	000035	Expense Distribution							46.00	00002585	DOUGLAS CORDIER
62490	ACC2320837	03/13/2012	000036	Expense Distribution							28.00	00002584	HOLLY CAPP
TOTAL	62490	Non-Employee In State Meals									28.00	00002583	PATTY MYERS

REPORT ID: MTGL0106-0  
 BUS. UNIT: 51010 Board of Public Education  
 FOR THE FY PERIOD: MARCH 2012  
 ORG: 1 - BOARD OF PUBLIC EDUCATION  
 MGR NAME: MELOY, STEVE

ACCNT	JRNL-ID	DATE	JRNL-LN	DESCRIPTION	AMOUNT	VCHR-ID	VENDOR NAME	ELAPSED TIME YTD:
PART-C CURR MONTH DETAIL EXPENSE TRANSACTIONS								
62497	ACC2320837	03/13/2012	000037	Expense Distribution	83.00	00002588	JOHN EDWARDS	75%
62497	ACC2320837	03/13/2012	000038	Expense Distribution	179.62	00002587	SHARON CARROLL	
62497	ACC2320837	03/13/2012	000039	Expense Distribution	179.62	00002586	ERIN WILLIAMS	
62497	ACC2320837	03/13/2012	000040	Expense Distribution	179.62	00002585	DOUGLAS CORDIER	
62497	ACC2320837	03/13/2012	000041	Expense Distribution	179.62	00002584	HOLLY CAPP	
62497	ACC2320837	03/13/2012	000042	Expense Distribution	179.62	00002583	PATTY MYERS	
TOTAL	62497	Non-Employee In-State Lodging			981.10			
62878	ACC2324492	03/22/2012	000004	Expense Distribution	560.72	00002590	SEB PARTNERSHIP	
62878	ACC2326262	03/28/2012	000012	Expense Distribution	62.00	00002591	HELENA CITY OF TREASURER	
TOTAL	62878	Parking Fees			622.72			
69301	ACC2323980	03/21/2012	000008	Expense Distribution	74.24	00002589	USBANCORP EQUIPMENT FINANCE INC	

TOTAL PART-C CURR MONTH DETAIL EXPENSE TRANSACTIONS 4,718.16

PART-A ACTUAL EXPENSE ACCOUNT SUMMARY		FUND	CURRENT MONTH	CURRENT YEAR	CM PRIOR YR	PRIOR YEAR	ELAPSED TIME YTD:	75%
ACCOUNT	DESCRIPTION						CURR+PRIOR	
61101	Regular	02122	7,687.06	65,731.86			65,731.86	
61103	Sick Leave	02122		33.48			33.48	
61104	Vacation	02122		133.90			133.90	
61105	Holiday	02122		133.90			133.90	
61133	Termination Pay - Sick Leave	02122		707.83			707.83	
61134	Termination Pay - Vacation	02122		1,097.18			1,097.18	
61158	Compensatory Time Taken	02122		25.11			25.11	
TOTAL	61100 Salaries		7,687.06	67,863.26			67,863.26	
61401	FICA	02122	553.62	4,901.01			4,901.01	
61402	Retirement - Other	02122	192.02	1,765.50			1,765.50	
61403	Group Insurance	02122	1,400.02	12,263.06			12,263.06	
61404	Workers Compensation Insur	02122	90.00	948.88			948.88	
61410	State Unemployment Tax	02122	26.90	237.47			237.47	
61411	Teachers Retirement	02122	493.38	4,259.16			4,259.16	
TOTAL	61400 Employee Benefits		2,755.94	24,375.08			24,375.08	
TOTAL	61000 Personal Services		10,443.00	92,238.34			92,238.34	
TOTAL	FUND 02122 Advisory Council		10,443.00	92,238.34			92,238.34	
TOTAL	PART-A ACTUAL EXPENSE ACCOUNT SUMMARY		10,443.00	92,238.34			92,238.34	

PART-B BUDGET EXPENSE ACCOUNT SUMMARY		FUND	PROG	SUB-CLS	BUDGET	ENCUMBERED	EXPENDED	%
ACCOUNT	DESCRIPTION							
61000	Personal Services	02122	2012	235H1	112,918.00		96,959.00	86
TOTAL	SUB-CLS 235H1 ADMINISTRATION				112,918.00		96,959.00	86
TOTAL	FUND 02122 Advisory Council				112,918.00		96,959.00	86
TOTAL	PROGRAM 2012				112,918.00		96,959.00	86
TOTAL	PART-B BUDGET EXPENSE ACCOUNT SUMMARY				112,918.00		96,959.00	86

PART-C CURR MONTH DETAIL EXPENSE TRANSACTIONS		JRNL-ID	DATE	JRNL-LN	DESCRIPTION	AMOUNT	VCHR-ID	VENDOR NAME
61101	PAY2317281	03/06/2012	000004	PPE	02/24/12 LD1 ON-CYCLE	3,843.53		
61101	PAY2323104	03/20/2012	000004	PPE	3/9/12 LE1 ON-CYCLE	3,843.53		
TOTAL	61101 Regular					7,687.06		
61401	PAY2317281	03/06/2012	000006	PPE	02/24/12 LD1 ON-CYCLE	276.80		
61401	PAY2323104	03/20/2012	000006	PPE	3/9/12 LE1 ON-CYCLE	276.82		
TOTAL	61401 FICA					553.62		
61402	PAY2317281	03/06/2012	000007	PPE	02/24/12 LD1 ON-CYCLE	96.01		
61402	PAY2323104	03/20/2012	000007	PPE	3/9/12 LE1 ON-CYCLE	96.01		
TOTAL	61402 Retirement - Other					192.02		
61403	PAY2317281	03/06/2012	000009	PPE	02/24/12 LD1 ON-CYCLE	700.01		
61403	PAY2323104	03/20/2012	000009	PPE	3/9/12 LE1 ON-CYCLE	700.01		
TOTAL	61403 Group Insurance					1,400.02		

PART-C CURR MONTH DETAIL EXPENSE TRANSACTIONS

ACCNT	JRNL-ID	DATE	JRNL-LN	DESCRIPTION	AMOUNT	VCHR-ID	VENDOR NAME
61404	PAY2317281	03/06/2012	000011	PPE 02/24/12 LD1 ON-CYCLE	45.00		
61404	PAY2323104	03/20/2012	000011	PPE 3/9/12 LE1 ON-CYCLE	45.00		
TOTAL	61404	Workers Compensation Insur			90.00		
61410	PAY2317281	03/06/2012	000013	PPE 02/24/12 LD1 ON-CYCLE	13.45		
61410	PAY2323104	03/20/2012	000013	PPE 3/9/12 LE1 ON-CYCLE	13.45		
TOTAL	61410	State Unemployment Tax			26.90		
61411	PAY2317281	03/06/2012	000015	PPE 02/24/12 LD1 ON-CYCLE	246.69		
61411	PAY2323104	03/20/2012	000015	PPE 3/9/12 LE1 ON-CYCLE	246.69		
TOTAL	61411	Teachers Retirement			493.38		
TOTAL	PART-C CURR MONTH DETAIL EXPENSE TRANSACTIONS				10,443.00		

ACCOUNT	FUND	CURRENT MONTH	CURRENT YEAR	CM PRIOR YR	PRIOR YEAR	ELAPSED TIME YTD: 75%
						CURR+PRIOR
<b>PART-A ACTUAL EXPENSE ACCOUNT SUMMARY</b>						
61101 Regular	02219		4,224.95			4,224.95
61133 Termination Pay - Sick Leave	02219		123.40			123.40
61134 Termination Pay - Vacation	02219		226.16			226.16
TOTAL 61100 Salaries			4,574.51			4,574.51
61301 Per Diem	02219	150.00	1,200.00			1,200.00
61401 FICA	02219		331.90			331.90
61402 Retirement - Other	02219		62.41			62.41
61403 Group Insurance	02219		480.11			480.11
61404 Workers Compensation Insur	02219		49.48			49.48
61404A State Fund Dividend-NONEBUDG	02219		57.74-			57.74-
61410 State Unemployment Tax	02219		16.02			16.02
61411 Teachers Retirement	02219		364.87			364.87
TOTAL 61400 Employee Benefits			1,247.05			1,247.05
TOTAL 61000 Personal Services		150.00	7,021.56			7,021.56
62104 Insurance & Bonds	02219		298.50			298.50
62113 Warrant Writing Services	02219	4.89	23.37			23.37
62114 HRIS Service Fees	02219		318.50			318.50
62114A Workers' Comp Program Fees	02219		29.00			29.00
62148 SABHRS Administrative Costs	02219		349.86			349.86
62190 Printing/Pub & Graphics	02219		184.47			184.47
62199 General	02219		30.00			30.00
621B4 ITSD Application Hosting Servi	02219		0.50			0.50
621B5 ITSD Email Services	02219	9.64	80.38			80.38
621C5 ITSD Enterprise Services	02219	95.96	767.68			767.68
TOTAL 62100 Other Services		110.49	2,082.26			2,082.26
62212 Photo & Reproduction	02219	10.13	161.34			161.34
62236 Ofc Supplies/Central Stores	02219		115.47			115.47
62241 Office Sup/Minor Equip-NonStat	02219		482.51			482.51
62280 Program Expense	02219	56.57	509.42			509.42
622B1 ITSD Asset Broker	02219	79.76	638.11			638.11
TOTAL 62200 Supplies & Materials		146.46	1,906.85			1,906.85
62304 Postage & Mailing	02219	23.77	782.70			782.70
62319 Cellular Phones	02219		89.81			89.81
623B0 ITSD Voice Services	02219	37.44	338.11			338.11
623B2 ITSD Network Services	02219	223.27	1,907.35			1,907.35
623B4 ITSD Long Distance Services	02219	10.80	36.35			36.35
TOTAL 62300 Communications		295.28	3,154.32			3,154.32
62404 In-State State Motor Pool	02219		38.90			38.90
62407 In-State Meals	02219		24.00			24.00
62408 In-State Lodging	02219		284.80			284.80
62489 Non-Employee In State Mileage	02219		3,790.12			3,790.12
62490 Non-Employee In State Meals	02219		462.00			462.00
62497 Non-Employee In-State Lodging	02219		2,030.32			2,030.32
TOTAL 62400 Travel			6,630.14			6,630.14

PART-A ACTUAL EXPENSE ACCOUNT SUMMARY		FUND	CURRENT MONTH	CURRENT YEAR	CM PRIOR YR	PRIOR YEAR	ELAPSED TIME YTD:	75%
ACCOUNT							CURR+PRIOR	
62516	Meeting Rooms	02219		130.00			130.00	
62528	Rent-Non Dept of Admin	02219		3,924.99			3,924.99	
TOTAL	62500 Rent			4,054.99			4,054.99	
62768	Property Management Expenses	02219		67.75			67.75	
62801	Dues	02219		400.00			400.00	
62802	Subscriptions	02219		44.97			44.97	
62817	Meetings/Conference Costs	02219		35.00			35.00	
62878	Parking Fees	02219	622.71	2,404.13			2,404.13	
62888	Statewide Indirect Costs	02219		802.50			802.50	
TOTAL	62800 Other Expenses		622.71	3,686.60			3,686.60	
TOTAL	62000 Operating Expenses		1,174.94	21,582.91			21,582.91	
69301	Principal - Leases	02219	74.23	732.75			732.75	
69302	Interest - Leases	02219		9.55			9.55	
TOTAL	69300 Capital Leases		74.23	742.30			742.30	
TOTAL	FUND 02219 Research Fund		1,399.17	29,346.77			29,346.77	
TOTAL	PART-A ACTUAL EXPENSE ACCOUNT SUMMARY		1,399.17	29,346.77			29,346.77	

PART-B BUDGET EXPENSE ACCOUNT SUMMARY		FUND	PROG	SUB-CLS	BUDGET	ENCUMBERED	EXPENDED	BALANCE	%
61000	Personal Services	02219	2012	235H1	9,924.00		2,358.64	7,565.36	24
61000	Personal Services	02219	2012	235Z1	76.00		76.00	76.00	24
TOTAL	61000 Personal Services				10,000.00		2,358.64	7,641.36	24
62000	Operating Expenses	02219	2012	235H1	64,111.00		21,582.91	42,528.09	34
69000	Debt Service	02219	2012	235H1	891.00		742.30	148.70	83
TOTAL	SUB-CLS 235H1 ADMINISTRATION				74,926.00		24,683.85	50,242.15	33
TOTAL	SUB-CLS 235Z1 WORKERS COMP. REDUCTION				76.00		76.00	76.00	33
TOTAL	FUND 02219 Research Fund				75,002.00		24,683.85	50,318.15	33
TOTAL	PROGRAM 2012				75,002.00		24,683.85	50,318.15	33
TOTAL	PART-B BUDGET EXPENSE ACCOUNT SUMMARY				75,002.00		24,683.85	50,318.15	33

PART-C CURR MONTH DETAIL EXPENSE TRANSACTIONS		ACCNT	JRNL-ID	DATE	JRNL-LN	DESCRIPTION	AMOUNT	VCHR-ID	VENDOR NAME
61301	ACC2320837	03/13/2012	000022	Expense Distribution		50.00	00002586		ERIN WILLIAMS
61301	ACC2320837	03/13/2012	000023	Expense Distribution		50.00	00002588		JOHN EDWARDS
61301	ACC2320837	03/13/2012	000024	Expense Distribution		50.00	00002583		PATTY MYERS
TOTAL	61301 Per Diem					150.00			
62113	0002318075	03/07/2012	000002	Warrant Writing Services		4.89			
621B5	0002321492	03/15/2012	000006	ITSD Email Services		9.64			
621C5	0002321492	03/15/2012	000008	ITSD Enterprise Services		95.96			

ACCNT	JRNL-ID	DATE	JRNL-LN	DESCRIPTION	AMOUNT	VCHR-ID	VENDOR NAME	ELAPSED TIME YTD:
62212	ACC2323980	03/21/2012	000006	Expense Distribution	10.13	00002589	USBANCORP EQUIPMENT FINANCE INC	75%
62280	ACC2326262	03/28/2012	000008	Expense Distribution	21.40	00002593	LEHRKINDS INC	
62280	ACC2326262	03/28/2012	000010	Expense Distribution	35.17	00002592	BRESNAN COMMUNICATIONS LLC	
TOTAL	62280	Program Expense			56.57			
622B1	0002321492	03/15/2012	000005	ITSD Asset Broker	79.76			
62304	0002325983	03/28/2012	000002	Postage & Mailing	23.77			
623B0	0002318073	03/07/2012	000004	ITSD Voice Services	37.44			
623B2	0002321492	03/15/2012	000007	ITSD Network Services	223.27			
623B4	0002318073	03/07/2012	000002	ITSD Long Distance Services	10.80			
62878	ACC2324492	03/22/2012	000003	Expense Distribution	560.71	00002590	SEB PARTNERSHIP	
62878	ACC2326262	03/28/2012	000011	Expense Distribution	62.00	00002591	HELENA CITY OF TREASURER	
TOTAL	62878	Parking Fees			622.71			
69301	ACC2323980	03/21/2012	000007	Expense Distribution	74.23	00002589	USBANCORP EQUIPMENT FINANCE INC	

TOTAL PART-C CURR MONTH DETAIL EXPENSE TRANSACTIONS 1,399.17

**INFORMATION**

❖ **REPORTS - Patty Myers (Items 1-6)**

**ITEM 1**

**CHAIRPERSON'S REPORT**

Patty Myers

**BOARD OF PUBLIC EDUCATION**  
**APPEARANCES**

## Board of Public Education

### Authority

#### Constitution of Montana -- Article X -- EDUCATION AND PUBLIC LANDS

**Section 9. Boards of education.** (1) There is a state board of education composed of the board of regents of higher education and the board of public education. It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board.

(c) The board shall appoint a commissioner of higher education and prescribe his term and duties.

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board.

#### Constitution of Montana -- Article III -- GENERAL GOVERNMENT

**Section 1. Separation of powers.** The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

# Montana Code Annotated 2011

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**20-2-114. Adoption of rules -- seal -- record of proceedings.** The board of public education, the board of regents, and the state board of education each shall:

- (1) adopt rules consistent with the constitution or laws of the state of Montana necessary for its own government or the proper execution of the powers and duties conferred upon it by law;
- (2) adopt and use an official seal to authenticate its official acts; and
- (3) keep a record of its proceedings.

**History:** En. Sec. 8, Ch. 344, L. 1973; R.C.M. 1947, 75-5616.

# Montana Code Annotated 2011

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**20-2-121. Board of public education -- powers and duties.** The board of public education shall:

- (1) effect an orderly and uniform system for teacher certification and specialist certification and for the issuance of an emergency authorization of employment by adopting the policies prescribed by [20-4-102](#) and [20-4-111](#);
- (2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial of teacher or specialist certification in accordance with the provisions of [20-4-110](#);
- (3) administer and order the distribution of BASE aid in accordance with the provisions of [20-9-344](#);
- (4) adopt and enforce policies to provide uniform standards and regulations for the design, construction, and operation of school buses in accordance with the provisions of [20-10-111](#);
- (5) adopt policies prescribing the conditions when school may be conducted on Saturday and the types of pupil-instruction-related days and approval procedure for those days in accordance with the provisions of [20-1-303](#) and [20-1-304](#);
- (6) adopt standards of accreditation and establish the accreditation status of every school in accordance with the provisions of [20-7-101](#) and [20-7-102](#);
- (7) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of [20-7-201](#);
- (8) adopt policies for the conduct of special education in accordance with the provisions of [20-7-402](#);
- (9) adopt rules for issuance of documents certifying equivalency of completion of secondary education in accordance with [20-7-131](#);
- (10) adopt policies for the conduct of programs for gifted and talented children in accordance

with the provisions of [20-7-903](#) and [20-7-904](#);

(11) adopt rules for student assessment in the public schools; and

(12) perform any other duty prescribed from time to time by this title or any other act of the legislature.

**History:** En. 75-5607 by Sec. 8, Ch. 5, L. 1971; (amd. Sec. 15, Ch. 434, L. 1975 -- [unconstitutional, 167 M 261]; Sec. 15, Ch. 434, L. 1975 repealed by Sec. 1, Ch. 4, L. 1977); amd. Sec. 1, Ch. 266, L. 1977; R.C.M. 1947, 75-5607; amd. Sec. 1, Ch. 511, L. 1979; amd. Sec. 9, Ch. 598, L. 1979; amd. Sec. 1, Ch. 94, L. 1983; amd. Sec. 1, Ch. 312, L. 1983; amd. Sec. 1, Ch. 377, L. 1987; amd. Sec. 40, Ch. 633, L. 1993; amd. Sec. 7, Ch. 138, L. 2005.

## Montana Code Annotated 2011

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**20-7-101. Standards of accreditation.** (1) Standards of accreditation for all schools must be adopted by the board of public education upon the recommendations of the superintendent of public instruction.

(2) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal to the education and local government interim committee for review. The interim committee shall request a fiscal analysis to be prepared by the legislative fiscal division. The legislative fiscal division shall provide its analysis to the interim committee and to the office of budget and program planning to be used in the preparation of the executive budget.

(3) If the fiscal analysis of the proposal is found by the legislative fiscal division to have a substantial fiscal impact, the board may not implement the standard until July 1 following the next regular legislative session and shall request that the same legislature fund implementation of the proposed standard. A substantial fiscal impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

(4) Standards for the retention of school records must be as provided in [20-1-212](#).

**History:** En. 75-7501 by Sec. 372, Ch. 5, L. 1971; R.C.M. 1947, 75-7501; amd. Sec. 2, Ch. 543, L. 1983; amd. Sec. 4, Ch. 208, L. 2005.

# Montana Code Annotated 2011

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**20-10-111. Duties of board of public education.** (1) The board of public education, with the advice of the Montana department of justice and the superintendent of public instruction, shall adopt and enforce policies, not inconsistent with the motor vehicle laws, to provide uniform standards and regulations for the design, construction, and operation of school buses in the state of Montana. The policies must:

(a) prescribe minimum standards for the design, construction, and operation of school buses consistent with:

- (i) the recommendations adopted by the national conference on school transportation; and
- (ii) the federal motor vehicle safety standards;

(b) prescribe standards and specifications for the lighting equipment and special warning devices to be carried by school buses in conformity with:

- (i) current specifications approved by the society of automobile engineers;
- (ii) motor vehicle laws; and
- (iii) the requirement that all school buses have an alternately flashing prewarning lighting system of four amber signal lamps to be used while preparing to stop and an alternately flashing warning lighting system of four red signal lamps to be used while stopped in accordance with [61-9-402](#);

(c) establish other driver qualifications considered necessary in addition to the qualifications required in [20-10-103](#);

(d) prescribe criteria for the establishment of transportation service areas for school bus purposes by the county transportation committee that shall allow for the establishment of service areas without regard to the district boundary lines within the county;

(e) prescribe other criteria for the determination of the residence of a pupil that may be considered necessary in addition to the criteria established in [20-10-105](#); and

(f) prescribe standards for the measurement of the child seating capacity of school buses, to be known as the rated capacity.

(2) The board of public education shall prescribe other policies necessary for the proper administration and operation of individual transportation programs that are consistent with the transportation provisions of this title.

**History:** En. 75-7004 by Sec. 281, Ch. 5, L. 1971; amd. Sec. 1, Ch. 416, L. 1973; R.C.M. 1947, 75-7004; amd. Sec. 1, Ch. 455, L. 1981; amd. Sec. 1, Ch. 280, L. 1989; amd. Sec. 13, Ch. 343, L. 1999; amd. Sec. 19, Ch. 237, L. 2001.

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## Rule: 10.55.804

[Prev](#) [Up](#) [Next](#)

Rule Title: GIFTED AND TALENTED

Department: [EDUCATION, DEPARTMENT OF](#)  
 Chapter: [STANDARDS OF ACCREDITATION](#)  
 Subchapter: [Educational Opportunity](#)



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Latest version of the adopted rule presented in Administrative Rules of Montana (ARM):

[Printer Friendly Version](#)

### 10.55.804 GIFTED AND TALENTED

(1) Schools shall provide educational services to gifted and talented students that are commensurate to their needs, and foster a positive self-image.

(2) Each school shall comply with all federal and state laws and regulations addressing gifted education.

(3) Each school shall provide structured support and assistance to teachers in identifying and meeting diverse student needs, and shall provide a framework for considering a full range of alternatives for addressing student needs. SEE ADMINISTRATIVE CODE COMMITTEE OBJECTION THAT FOLLOWS: At its December 15, 1989, meeting, the Administrative Code Committee unanimously voted that this rule is invalid because it mandates a gifted and talented children program in each school district. Section [20-7-902](#) (1), MCA, provides that "a school district may identify gifted and talented children and devise programs to serve them". The code section thus makes establishment of the program discretionary, at the choice of the school district. An administrative rule is invalid if it conflicts with a statute. See [2-4-305](#) (5) and (6) (a), MCA. The committee, which has general legislative branch oversight over the adoption and application of administrative rules, has done extensive research into the validity of this rule and considered the matter at numerous committee meetings. This objection is authorized by, and is published pursuant to, [2-4-406](#), MCA, which also provides that once the objection is published the agency that adopted the rule bears the burden, in any action challenging the legality of the rule, of proving that the rule or portion of the rule objected to was adopted in substantial compliance with sections [2-4-302](#), [2-4-303](#), and [2-4-305](#), MCA. That section also provides that the court may award costs and reasonable attorney fees against the agency if the court finds that the agency failed to meet its burden of proof and that the rule was adopted in arbitrary and capricious disregard for the purposes of the statute that authorized the rule. The Administrative Code Committee's objection to the rule does not constitute a vote or opinion on the question of the desirability of gifted and talented children programs, but rather, an opinion solely on the issue of whether the rule violates the Montana Administrative Procedure Act found in Title 2, Chapter 4, of the Montana Code Annotated in that the rule makes mandatory what the Montana Code Annotated makes discretionary.

History: [20-2-114](#), MCA; [IMP](#), [20-2-121](#), MCA; [NEW](#), 1989 MAR p. 342, Eff. 7/1/89; [AMD](#), 2000 MAR p. 3340, Eff. 12/8/00.

Effective rule versions existed in ARM on or after March 31, 2007

MAR Notices	Effective From	Effective To	History Notes
	12/8/2000	Current	History: <a href="#">20-2-114</a> , MCA; <a href="#">IMP</a> , <a href="#">20-2-121</a> , MCA; <a href="#">NEW</a> , 1989 MAR p. 342, Eff. 7/1/89; <a href="#">AMD</a> , 2000 MAR p. 3340, Eff. 12/8/00.

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For questions about the organization of the ARM or this web site, contact [sosarm@mt.gov](mailto:sosarm@mt.gov).

MONTANA FIRST JUDICIAL DISTRICT COURT

COUNTY OF LEWIS AND CLARK

\* \* \* \* \* )  
MONTANA BOARD OF PUBLIC EDUCATION, ) Cause No. BDV-91-1072  
Petitioner, )  
vs. )  
MONTANA ADMINISTRATIVE CODE )  
COMMITTEE, ) ORDER AND DECISION  
Respondent. )  
\* \* \* \* \*

This matter is before the Court on motions by all parties for summary judgment.

FACTUAL BACKGROUND

In 1989, the Board of Public Education (hereinafter the Board), adopted Rule 10.55.804, A.R.M. That rule, in pertinent part, provided as follows:

Beginning 7-1-92 the school shall make an identifiable effort to provide educational services to gifted and talented students, which are commensurate with their needs and foster a positive self-image.

The Administrative Code Committee felt that the aforementioned rule was in contravention of Section 20-7-902(1), MCA, which provides:

A school district may identify gifted and talented children and devise programs to serve them." (emphasis added).

The Board would not change its rule. Thereafter, at the request of the Administrative Code Committee, the 1991 legislature passed House Bill 116 which states as follows:

Whereas, the Legislature, not the Executive Branch, is the lawmaking branch of the state government under the Montana Constitution; and

Whereas, the Legislature may delegate its power to

pass laws to the Executive Branch, which may then, within certain limits, adopt administrative rules that have the force and effect of law; and

Whereas, a rule may not conflict with a statute and is invalid if it does; and

Whereas, Section 20-7-902(1), MCA, provides that "a school district may identify gifted and talented children and devise programs to serve them" and Rule 10.55.804 ARM mandates a gifted and talented children program in each school, thereby directly and clearly conflicting with the statute; and Whereas, the Legislature has made a gifted and talented children program discretionary, at the choice of each local school board, the Legislature nonetheless affirms its support of gifted and talented education and encourages local school districts to identify gifted and talented students and design and implement programs that meet the needs of those students.

Be it enacted by the legislature of the State of Montana:

Section 1. Repealer. Rule 10.55.804, ARM, is repealed.

Section 2 Effective Date. This Act is effective July 1, 1991.

The Board felt that it had the authority to promulgate the aforementioned rule pursuant to the Article X, Section 9(3)(a), of the Montana Constitution of 1972, which provides:

There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

The Board brought the instant declaratory judgment action seeking a ruling as follows:

1. The legislative branch is not the sole law-making, or rule-making body under the Montana Constitution. Rather, the Board of Public Education, in exercising its Art. X Sec. 9(3) powers of "general supervision" has constitutional rule-making authority. This provision is self-executing and the authority granted is independent of any power that is "delegated" to the Board by the legislature.

2. The Board's accreditation standards, including the rule mandating gifted and talented programs, are within the purview of its Art. X Sec. 9(3), constitutional powers of "general supervision".

3. That House Bill 116 and/or 20-7-902 MCA, to the extent they interfere or conflict with the Board's constitutional rule-making are in violation of the separation of powers doctrine of Art. III Sec. 1 of the Montana Constitution and are therefore invalid and of no legal effect.

#### STANDARD OF REVIEW

Before reviewing the factual matter in particular, it would be helpful to review the standard that this Court will use in granting a motion for summary judgment. As all are aware, this Court cannot grant a motion for summary judgment if a genuine issue of material fact exists. Rule 56, M.R.Civ.P. Summary judgment encourages judicial economy through the elimination of

unnecessary trial, delay, and expense. *Wagner v. Glasgow Livestock Sale Co.*, 222 Mont. 385, 389, 722 P.2d 1165, 1168 (1986); *Clarks Fork National Bank v. Papp*, 215 Mont. 494, 496, 698 P.2d 851, 852-853 (1985); *Bonawitz v. Bourke*, 173 Mont. 179, 182, 567 P.2d 32, 33 (1977).

Summary judgment, however, will only be granted when the record discloses no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. See Rule 56(c), M.R.Civ.P.; *Cate v. Hargrave*, 209 Mont. 265, 269, 689 P.2d 952, 954 (1984). The movant has the initial burden to show that there is a complete absence of any genuine issue of material fact. To satisfy this burden, the movant must make a clear showing as to what the truth is so as to exclude any real doubt as to the existence of any genuine issue of material fact. *Kober & Kyriss v. Billings Deac. Hosp.*, 148 Mont. 117, 417 P.2d 476 (1966).

The opposing party must then come forward with substantial evidence that raises a genuine issue of material fact in order to defeat the motion. *Denny Driscoll Boys Home v. State*, 227 Mont. 177, 179, 737 P.2d 1150, 1151 (1987). Such motions, however, are clearly not favored. "[T]he procedure is never to be a substitute for trial if a factual controversy exists." *Reaves v. Reinhold*, 189 Mont. 284, 288, 615 P.2d 896, 898 (1980). If there is any doubt as to the propriety of a motion for summary judgment, it should be denied. *Rogers v. Swingley*, 206 Mont. 306, 670 P.2d 1386 (1983); *Cheyenne Western Bank v. Young*, 1 Mont. 492, 587587 P.2d 401 (1978); *Kober* at 122, 417 P.2d at 479.

Clearly, summary judgment is appropriate since there is no disputed question of fact, as has been acknowledged by both parties.

This Court is of the view that the Board's motion should be granted.

#### IMMUNITY

The parties have done an heroic effort of briefing the Court on the question of whether or not the Administrative Code Committee has immunity from the present action. This Court feels, however, that the immunity issue need not be addressed or decided in order to resolve this matter. The Court has before it the State of Montana as a defendant. Clearly, the Board is entitled to have House Bill 116 tested before a Court. Perhaps the Administrative Code Committee is not the appropriate defendant. Clearly, however, the State of Montana is an appropriate defendant in such an action. Thus, in order to avoid the question of whether or not the Administrative Code Committee is immune, the Court will dismiss the Administrative Code Committee from this suit. This, however, still leaves the question of whether or not House Bill 116 improperly interfered with the Board's constitutional authority.

#### CONSTITUTIONALITY OF H.B. 116

The Court has been directed to a West Virginia case that is very persuasive. See *West Virginia Board of Education vs. Hechler*, 376 S.E.2d 839 (West Virginia 1988). In that case, the Supreme Court of West Virginia noted that Article XII, Section 2, of the West Virginia State Constitution provided:

The general supervision of the free schools of the state shall be vested in the West Virginia Board of Education which shall perform such duties as may be

prescribed by law.

Id. at 842.

Pursuant to that Constitutional enactment, the West Virginia Board of Education adopted rules concerning design and equipment of school buses. The board filed their rule with the West Virginia secretary of state for publication. However, the secretary of state of West Virginia refused to file the rule because the Board had failed to first submit the rule to a legislative oversight committee. The West Virginia Supreme Court held that any attempt to impede rules proposed by the West Virginia Board of Education was not consistent with the general supervisory powers conferred upon the board by the West Virginia constitution.

The West Virginia court noted that state legislators, since they infrequently meet, cannot assume supervisory responsibility for public schools. In such cases, the supervision and administrative control over the state school system is placed in a State Board of Education. Decisions that pertain to education should be faced by those who possess expertise in the educational area. Id. at 842.

The West Virginia court noted that the Board of Education enjoyed a special standing due to its placement in the West Virginia Constitution. The Supreme Court of West Virginia held that the particular rule-making by the State Board of Education was within the meaning of general supervision of state schools as announced by the West Virginia Constitution, and that any statutory provision that interfered with such rule-making was unconstitutional. Id. at 843.

This is precisely the situation presented before this Court. In the first instance, the West Virginia constitutional provision in question in *Hechler* is very similar to Article X, Section 9(3), of the Montana Constitution. As in *Hechler*, we here have a situation where the Montana legislature is interfering with the rule-making authority of a constitutionally created Board of Education. This being the case, that statutory interference is unconstitutional.

The Montana Constitution provides:

The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

See Montana Constitution, Art. III, sec. 1.

This Court is cognizant of the fact that there must be balancing between the powers of the legislature and those of special boards created by Montana's Constitution. This balancing was discussed in detail in the case of *Board of Regents vs. Judge*, 168 Mont. 433, 543 P.2d 1323 (1975). However, in this case, this Court is convinced that the rule here in question, as adopted by the Board, is well within its constitutional prerogative to exercise general supervision over the public school system.

In its brief, the State of Montana has delved extensively into comments made by delegates to the 1972 constitutional convention. However, if the language of the Constitution is clear, it may not be ignored. Further, if the language is clear, its meaning is to be ascertained from the Constitution itself construing the language as written. This being the case, there

is no occasion for construction since the language is plain and unambiguous. See *General Agriculture Corporation v. Moore*, 166 Mont. 510, 516, 534 P.2d 859 (1975).

Further, the State notes that the rule, as originally suggested by the Board, was allegedly drafted pursuant to statutory authority and not pursuant to the Constitution. Thus, argues the State, the Board cannot now seek to use the Constitution to support the passage of the rule. With this contention this Court cannot agree. The Board is a constitutionally recognized and created agency. As such, it is not subject to the usual administrative and legislative constraints to which the State refers. For example, it matters not that the Board may or may not have precisely complied with the Montana Administrative Procedure Act in adopting the rule in question. That Act is enacted by the legislature. As noted earlier, the legislature cannot interfere with other constitutionally created bodies that are properly conducting their business.

Further, the State points to the Attorney General's opinion contained at 44 Op. Att'y Gen. No. 4. However, that opinion expressly indicated that it was not dealing with any constitutional power of the Board.

The State exalts form over substance and would require the Board to perform a meaningless act. The State seems to be contending that one of the reasons this rule is invalid is that the Board did not follow precise administrative procedures. Thus, argues the Board, if the Board did follow these precise administrative procedures, and indicated that the rule was not being adopted pursuant to a statute but pursuant to the Constitution, then perhaps the rule would be valid. This Court considers such a procedure to be a futile act. This Court will not require the Board to go through such a futile procedure. Perhaps that argument would be well taken if we were here dealing with a board or agency created by another branch of government. However, we are dealing with a constitutionally-empowered board.

Based on the above, the Court hereby enters its declaratory ruling as follows:

The Board of Public Education, pursuant to Article X, Section 9(3), of the Montana Constitution, is vested with constitutional rule-making authority. This provision is self-executing and independent of any power that is delegated to the Board by the legislature. The Board's rule mandating gifted and talented programs is within the purview of the Board's constitutional power of general supervision pursuant to Article X, Section 9(3), of the Montana Constitution. House Bill 116, to the extent that it interferes or conflicts with the Board's constitutional rule-making power, is in violation of the separation of powers doctrine of Article III, Section 1, of the Montana Constitution, and is therefore invalid and of no further force or effect.

DATED this \_\_\_\_\_ day of March, 1992.

s/JUDGE SHERLOCK

pc: W. William Leaphart  
Eddy McClure  
Judy Browning

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*180 W. Va. 451, \*; 376 S.E.2d 839, \*\*;  
1988 W. Va. LEXIS 208, \*\*\**

The WEST VIRGINIA **BOARD OF EDUCATION**, a Statutory Corporation and Tom McNeel, State Superintendent of Schools v. Ken **HECHLER**, Secretary of State

No. 18708

Supreme Court of Appeals of West Virginia

180 W. Va. 451; 376 S.E.2d 839; 1988 W. Va. LEXIS 208

December 21, 1988, Filed

**PRIOR HISTORY:** Mandamus.

**DISPOSITION:** WRIT GRANTED.

**CASE SUMMARY:**

**PROCEDURAL POSTURE:** Petitioners, the West Virginia Board of Education and the State Superintendent of Schools, sought a writ of mandamus directing respondent Secretary of State to file rules approved by the Board.

**OVERVIEW:** The West Virginia legislature amended the State Administrative Procedures Act, W. Va. Code §§ 29A-1-1-29A-7-4, by adding to it article 3A. Pursuant to the provisions of the new article, the Board had to submit its approved legislative rules to the oversight commission for review. The court was of the opinion that the relief requested by petitioners should have been granted. The court held that rule-making by the Board was within the meaning of "general supervision" of state schools pursuant to W. Va. Const. art. XII, § 2, and that any statutory provision that interfered with such rule-making was unconstitutional. Consequently, W. Va. Code §§ 29A-3A-12 and -13 (1988) were thereby declared to be unconstitutional. In light of the court's holding that the Board's rule-making authority was constitutional, the case cited by respondents had no application to the case before the court because the case cited by respondents involved administrative rules promulgated pursuant to a legislative delegation of rule-making power. Petitioners were challenging the constitutionality of W. Va. Code §§ 29A-3A-12 and -13 (1988). Therefore, mandamus was clearly a proper remedy in petitioners' case.

**OUTCOME:** The court granted petitioners' request for a writ of mandamus and compelled the Secretary to file rules approved by the Board in the state register.

**CORE TERMS:** board of education, rule-making, oversight, state board, general supervision, newly enacted, school buses, writ of mandamus, supervisory powers, supervisory, register, statutory provision, accountability, educational, promulgate, delegation, recommend, interfere, fails to act, administrative agencies, free schools, superintendents, prescribed, mandamus, veto, rule governing, administrative rules, emergency rules, board of regents, public education

**LEXISNEXIS(R) HEADNOTES**

Administrative Law > Agency Rulemaking > Rule Application & Interpretation > General

## Overview

Education Law > Departments of Education > State Departments of Education > Authority

**HN1** ↓ After review of a rule approved by the Board of Education, the oversight commission is required to recommend that the legislature either promulgate the rule in whole or in part, or recommend that the rule be withdrawn. If the legislature fails to act on a rule submitted to it by the oversight commission, then the Board is prohibited from taking any action on the rule unless and until otherwise authorized to do so. W. Va. Code 29A-3A-13(b) (1988).

Administrative Law > Agency Adjudication > Hearings > General Overview

Administrative Law > Agency Rulemaking > Formal Rulemaking

Education Law > Departments of Education > State Departments of Education > Authority

**HN2** ↓ W. Va. Code 29A-3A-12 (1988), in effect, requires that the Board of Education file its approved rules and information pertaining thereto with the legislative oversight commission on education accountability. After review, which may include public hearings, the oversight commission is required to either recommend that the legislature authorize the Board to promulgate the rule in whole or in part, or recommend that the rule be withdrawn.

Administrative Law > Agency Rulemaking > Formal Rulemaking

Education Law > Departments of Education > State Departments of Education > Authority

**HN3** ↓ W. Va. Code 29A-3A-13 (1988), in effect, outlines the procedures by which Board of Education rules are submitted to the legislature by the oversight commission. If the legislature fails to act on a submitted rule, the Board may not take any action on it unless and until otherwise authorized to do so.

Constitutional Law > State Constitutional Operation

Education Law > Departments of Education > State Departments of Education > Authority

**HN4** ↓ The provisions of W. Va. Const. art. XII, § 1 et seq., as well as W. Va. Const. art. X, § 5, when construed in light of its prior cases gives a constitutionally preferred status to public education in the State of West Virginia.

Education Law > Departments of Education > State Departments of Education > Authority  
Governments > Legislation > Types of Statutes

**HN5** ↓ W. Va. Const. art. XII, § 1 states: The legislature shall provide, by general law, for a thorough and efficient system of free schools. W. Va. Const. art. XII, § 2 of the, however, provides in part: The general supervision of the free schools of the state shall be vested in the West Virginia board of education which shall perform such duties as may be prescribed by law.

Education Law > Departments of Education > State Departments of Education > Authority  
Public Health & Welfare Law > Social Services > Disabled & Elderly Persons > Education & Training > General Overview

**HN6** ↓ W. Va. Code 18-2-5 (1983), which states in part: Subject to and in conformity with the constitution and laws of this State, the state board of education shall determine the educational policies of the State and shall make rules for carrying into effect the laws and policies of the State relating to education, including rules relating to the physical welfare of pupils, the education of feeble-minded and physically disabled or crippled children of school age, school attendance, evening and continuation or part-time day schools, school extension work, the classification of schools, the issuing of certificates upon credentials, the distribution and care of free textbooks by the county boards of education, the general powers and duties of county boards of education, and of teachers, principals, supervisors and superintendents, and such other matters pertaining to the public schools of the State as may seem to the state board to be necessary and expedient.

Administrative Law > Agency Rulemaking > Formal Rulemaking

Education Law > Departments of Education > State Departments of Education > Authority

Education Law > Departments of Education > State Departments of Education > State Boards of Education

**HN7** ↓ Although the grant of rule-making authority is tempered by a requirement that it be exercised in conformance with other statutory provisions, it is indicative of the broad power of the State Board of Education over county boards of education, particularly in the area of state educational policy.

Administrative Law > Agency Rulemaking > Formal Rulemaking

Education Law > Departments of Education > State Departments of Education > Authority

**HN8** ↓ In accordance with W. Va. Code § 18-2-5 (1983), the Board adopted a rule governing the design and operation of school buses. This rule is clearly within the purview of "general supervision" of state schools pursuant to W. Va. Const. art. XII, § 2. Any statutory provision that interferes with the State Board of Education's general supervision of the free schools of the State under W. Va. Const. art. XII, § 2 is void. Rules proposed by the Board are integral to the day-to-day operation of schools. An attempt to impede this process is not consistent with the general supervisory powers conferred upon the Board by W. Va. Const. art. XII, § 2. It is not uncommon for a state board of education to govern these day-to-day operations of schools. Because state legislators themselves cannot possibly assume actual supervisory responsibility for public schools, the general supervision and administrative control over a state's public school system is generally placed in the hands of a state board of education.

Education Law > Departments of Education > State Departments of Education > Authority

**HN9** ↓ "General supervision" is not an axiomatic blend of words designed to fill the pages of the West Virginia State Constitution, but it is a meaningful concept to the governance of schools and education in this state. Decisions that pertain to education must be faced by those who possess expertise in the educational area.

Administrative Law > Agency Rulemaking > Formal Rulemaking

Education Law > Departments of Education > State Departments of Education > Authority

**HN10** ↓ The rule-making power prescribed by W. Va. Code § 18-2-5 (1983) is a provision that has aided the Board of Education's general supervisory functions. The newly enacted provisions of the State Administrative Procedures Act, however, namely, W. Va. Code §§ 29A-3A-12 and -13 (1988), pose an interference with the Board's rule-making power, and consequently, the Board's general supervisory functions.

Administrative Law > Agency Rulemaking > Formal Rulemaking

Education Law > Departments of Education > State Departments of Education > Authority

**HN11** ↓ Rule-making by the State Board of Education is within the meaning of "general supervision" of state schools pursuant to W. Va. Const. art. XII, § 2, and any statutory provision that interferes with such rule-making is unconstitutional. Consequently, W. Va. Code §§ 29A-3A-12 and -13 (1988) are hereby declared to be unconstitutional.

Administrative Law > Agency Rulemaking > Formal Rulemaking

Education Law > Departments of Education > State Departments of Education > Authority

**HN12** ↓ W. Va. Const. art. XII, § 1, granting the legislature the authority to establish a thorough and efficient system of free schools, does not entail the exclusive delegation of rule-making functions that are part of the Board of Education's general supervisory powers pursuant to W. Va. Const. art. XII, § 2. An attempt to undertake the Board's general supervisory powers violates the provision of W. Va. Const. art. V, § 1, which states: The legislative, executive and judicial departments shall be separate and distinct, so that neither shall exercise the powers properly

belonging to either of the others. Hence, such an attempt is unconstitutional. Consistent with the foregoing, a rule adopted by the State Board of Education, setting forth minimum requirements for the design and equipment of school buses, is within the meaning of "general supervision" of state schools pursuant to W. Va. Const. art. XII, § 2. W. Va. Code §§ 29A-3A-12 and -13 (1988) interfere with such "general supervision," and, therefore, are unconstitutional.

Civil Procedure > Remedies > Writs > Common Law Writs > Mandamus

**HN13** ↓ A writ of mandamus will not issue unless three elements coexist: (1) a clear legal right in the petitioner to the relief sought, (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel, and (3) the absence of another adequate remedy. Mandamus may be used to attack the constitutionality or validity of a statute or ordinance.

## SYLLABUS

**[\*\*\*1]** 1. "The provisions of Article XII, Section 1, et seq., as well as Article X, Section 5 of the West Virginia Constitution, when construed in light of our prior cases, gives a constitutionally preferred status to public education in this State." Syl. pt. 1, State ex rel. Board of Education v. Rockefeller, 167 W. Va. 72, 281 S.E.2d 131 (1981).

2. Rule-making by the State Board of Education is within the meaning of "general supervision" of state schools pursuant to art. XII, § 2 of the West Virginia Constitution, and any statutory provision that interferes with such rule-making is unconstitutional. Consequently, W. Va. Code, 29A-3A-12 and -13 [1988] are hereby declared to be unconstitutional.

3. A rule adopted by the State Board of Education, setting forth minimum requirements for the design and equipment of school buses, is within the meaning of "general supervision" of state schools pursuant to art. XII, § 2 of the West Virginia Constitution. W. Va. Code, 29A-3A-12 and -13 [1988] interfere with such "general supervision," and, therefore, are unconstitutional.

4. "Mandamus may be used to attack the constitutionality or validity of a statute or ordinance." West **[\*\*\*2]** Virginia Citizens Action Group, Inc. v. Daley, W. Va. , , 324 S.E.2d 713, 717 (1984).

**COUNSEL:** For Appellant: Charles G. Brown, AG, J. Bradley Russell, Sr. AAG, Beth Hunter, AAG..

**JUDGES:** McHugh, Chief Justice.

**OPINION BY:** McHUGH

## OPINION

**[\*452] [\*\*840]** In this original proceeding, the petitioners, the West Virginia Board of Education (hereinafter the "Board") and Tom McNeel, State Superintendent of Schools, seek a writ of mandamus directing the respondent, Ken Hechler, Secretary of State, to file rules approved by the Board. This Court has reviewed the petition, the response, and all arguments and exhibits attached thereto. <sup>1</sup> We are of the opinion that the relief requested by the petitioners should be granted.

## FOOTNOTES

<sup>1</sup> This Court has also reviewed: the *amicus curiae* brief on behalf of the respondent, filed by the West Virginia Education Association; the *amici curiae* brief on behalf of the petitioners, filed by the West Virginia Congress of Parents and Teachers, the West Virginia Association of School Administrators, the West Virginia Secondary School Principals Commission, the West Virginia School Boards Association, the West Virginia Council of Vocational Administrators, the West Virginia Association of Leaders of Federal Education Programs, the West Virginia Association of Elementary School Principals, the West Virginia School Personnel Association, the West Virginia Association of School Business Officials, and the West Virginia Council of Administrators of Special Education; and the affidavit of Tom McNeel, State Superintendent of Schools and a petitioner in this proceeding, concerning dissemination of proposed policies of the State Board of Education for public comment prior to adoption.

**[\*\*3]** I

In June, 1988, the West Virginia legislature amended the State Administrative Procedures Act, *W. Va. Code*, 29A-1-1 to 29A-7-4, as amended, by adding to it a new article, namely, article 3A. The new article, *inter alia*, establishes a "legislative oversight commission on education accountability." The oversight commission is to be comprised of eight members: three from the House of Delegates; three from the Senate; and the Speaker of the House and Senate President as *ex officio*, nonvoting members.

Pursuant to the provisions of this new article, the Board must submit its approved **[\*453]** legislative rules to the oversight commission for review. <sup>HN1</sup> After review of a rule approved by the Board, the oversight commission is required to recommend that the legislature either promulgate the rule in whole or in part, or recommend that the rule be withdrawn. If the legislature fails to act on a rule submitted to it by the oversight commission, then the Board is prohibited from taking any action on the rule "unless and until otherwise authorized to do so." *W. Va. Code*, 29A-3A-13(b) [1988].

In August, 1988, the Board adopted a rule entitled "West Virginia Minimum Requirements for Design **[\*\*4]** and Equipment of School Buses," to be effective October 22, 1988. The rule was filed with the respondent Secretary of State in order to be placed in the West Virginia State Register. The respondent, however, refused to file the rule, basing his refusal on the Board's failure to comply with the newly enacted provisions of the Administrative Procedures Act.

The petitioners seek a writ of mandamus compelling the respondent, the Secretary of State, to file rules approved by the Board in the state register. The petitioners also **[\*\*841]** request that this Court declare portions of the newly enacted Administrative Procedures Act unconstitutional, namely, *W. Va. Code*, 29A-3A-12 and -13 [1988]. <sup>2</sup> This Court issued a rule, directed against the respondent, to show cause why a writ of mandamus should not be awarded against him in this proceeding.

## FOOTNOTES

<sup>2</sup> The full text of these newly enacted *Code* sections is too voluminous for reprint in this opinion.

<sup>HN2</sup> *W. Va. Code*, 29A-3A-12 [1988], in effect, requires that the Board file its approved rules and information pertaining thereto with the legislative oversight commission on education accountability. After review, which may include public hearings, the oversight commission is required to either recommend that the legislature authorize the Board to promulgate the rule in whole or in part, or recommend that the rule be withdrawn.

<sup>HN3</sup> *W. Va. Code*, 29A-3A-13 [1988], in effect, outlines the procedures by which Board

rules are submitted to the legislature by the oversight commission. If the legislature fails to act on a submitted rule, the Board may not take any action on it "unless and until otherwise authorized to do so." See *infra* note 3.

## \*\*\*5] II

We begin by discussing the constitutionally preferred status of public education in West Virginia. **HN4** "The provisions of Article XII, Section 1, *et seq.*, as well as Article X, Section 5 of the West Virginia Constitution, when construed in light of our prior cases, gives a constitutionally preferred status to public education in this State." Syl. pt. 1, *State ex rel. Board of Education v. Rockefeller*, 167 W. Va. 72, 281 S.E.2d 131 (1981).

**HN5** Article XII, § 1 of the *West Virginia Constitution* states: "The legislature shall provide, by general law, for a thorough and efficient system of free schools." Article XII, § 2 of the *State Constitution*, however, provides in pertinent part: "The general supervision of the free schools of the State shall be vested in the West Virginia board of education which shall perform such duties as may be prescribed by law." The petitioners contend that this general supervisory provision implies rule-making power, and by enacting *W. Va. Code*, 29A-3A-12 and -13 [1988], the legislature has effectively diminished article XII, § 2 of the *State Constitution*.<sup>3</sup> The Board's rule-making power is viewed by the respondent **[\*454]** as being derived primarily **\*\*\*6]** from **HN6** *W. Va. Code*, 18-2-5 [1983], which states in part:

Subject to and in conformity with the constitution and laws of this State, the state board of education shall determine the educational policies of the State and shall make rules for carrying into effect the laws and policies of the State relating to education, including rules relating to the physical welfare of pupils, the education of feeble-minded and physically disabled or crippled children of school age, school attendance, evening and continuation or part-time day schools, school extension work, the classification of schools, the issuing of certificates upon credentials, the distribution and care of free textbooks by the county boards of education, the general powers and duties of county boards of education, and of teachers, principals, supervisors and superintendents, and such other matters pertaining to the public schools of the State as may seem to the state board to be necessary and expedient.

See *Pauley v. Bailey*, W. Va. , , 324 S.E.2d 128, 133-34 (1984); *Detch v. Board of Education*, 145 W. Va. 722, 724, 117 S.E.2d 138, 140 (1960); *State ex rel. Board of Governors v. Sims*, 133 W.Va. 239, 250, **\*\*\*7]** **\*\*\*842]** 55 S.E.2d 505, 511 (1949). Referring to this statutory provision, this Court has stated that **HN7** "although this grant of rule-making authority is tempered by a requirement that it be exercised in conformance with other statutory provisions, it is indicative of the broad power of the State Board of Education over county boards of education, particularly in the area of state educational policy." *Bailey v. Truby*, W. Va. , , 321 S.E.2d 302, 311-12 (1984).

## FOOTNOTES

<sup>3</sup> The petitioners also contend that the newly enacted provision of *W. Va. Code*, 29A-3A-13 (b) [1988] amounts to a "pocket veto" of Board rules because this subsection prohibits the Board from taking any action on a submitted rule until the legislature acts on it. Obviously, if the legislature fails to act on a submitted rule, the effect on the rule is tantamount to a veto by the legislature. The United States Supreme Court addressed the "legislative veto" in *Immigration & Naturalization Service v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764, 77 L. Ed. 2d 317 (1983), holding that the Congress must abide by the authority it has delegated to the Attorney General to suspend deportation of a particular alien until the delegation is

altered or revoked by legislative action. *Id.* at 955, 103 S. Ct. at 2786, 77 L. Ed. 2d at 347. We need not address this contention, however, because the administrative authority at issue in *Chadha* emanated from a legislative delegation. In the case now before us, we are holding that the Board's rule-making authority is *constitutional*.

**[\*\*\*8]** The Board has traditionally been exempt from legislative rule-making review pursuant to *W. Va. Code*, 29A-1-3 [1986]. <sup>4</sup> The legislature, however, amended this provision in 1988 by removing the Board's exemption, thus allowing enactment of *W. Va. Code*, 29A-3A-12 and -13, requiring the Board to submit its legislative rules to the legislature for approval.

## FOOTNOTES

<sup>4</sup> *W. Va. Code*, 29A-1-3(b) [1986] provided:

Except as to requirements for filing in the state register, and with the Legislature or its rule-making review committee, provided in this chapter or other law, the provisions of this chapter do not apply in any respect whatever to the West Virginia board of probation and parole, the public service commission, the board of public works sitting as such, *the West Virginia board of education* and the West Virginia board of regents: Provided, That rules of such agencies shall be filed in the state register in the form prescribed by this chapter and be effective no sooner than sixty consecutive days after being so filed: Provided, however, That the rules promulgated by the state colleges and universities shall only be filed with the West Virginia board of regents: Provided further, That such agencies may promulgate emergency rules in conformity with section fifteen [§ 29A-3-15], article three of this chapter.

(emphasis supplied) The 1988 amendment to this section deleted "the West Virginia board of education."

**[\*\*\*9]** *HNB* In accordance with *W. Va. Code*, 18-2-5 [1983], the Board adopted a rule governing the design and operation of school buses. This rule is clearly within the purview of "general supervision" of state schools pursuant to art. XII, § 2 of the *West Virginia Constitution*. <sup>5</sup> In *Bailey v. Truby*, *W. Va.*, 321 S.E.2d 302 (1984), we concluded that "any statutory provision that interferes with the State Board of Education's 'general supervision of the free schools of the State' under article XII, § 2 of the West Virginia Constitution is void." *Id.* at 321 S.E.2d at 312. Rules proposed by the Board, like the rule in this case, are integral to the day-to-day operation of schools. An attempt to impede this **[\*455]** process is not consistent with the general supervisory powers conferred upon the Board by art. XII, § 2 of the *State Constitution*. It is not uncommon for a state board of education to govern these day-to-day operations of schools. "Since state legislators themselves cannot possibly assume actual supervisory responsibility for public schools, the general supervision and administrative control over a state's public school system is generally placed in **[\*\*\*10]** the hands of a state board of education." H. Hudgins & R. Vacca, *Law and Education* § 1.5, at 17-18 (2d ed. 1985). See also J. Rapp, 1 *Education Law* § 3.02[4][c] (1984).

## FOOTNOTES

<sup>5</sup> The Board's authorization to adopt and enforce rules governing the design and operation of school buses is also consistent with *W. Va. Code*, 17C-14-12 [1951], which provides in part:

(a) The West Virginia board of education by and with the advice of the motor

vehicle commissioner shall adopt and enforce regulations not inconsistent with this chapter to govern the design and operation of all school buses used for the transportation of school children when owned and operated by any county board of education in this State and such regulations shall by reference be made a part of any such contract with a county board of education. Every county board of education, its officers and employees, and every person employed under contract by a county board of education shall be subject to said regulations.

**HN9** "General supervision" is not an axiomatic blend of words designed to fill the pages of our State *Constitution*, but it is a meaningful concept to the governance of schools and education in this state. **\*\*\*11** Decisions that pertain to education must be faced by those who possess expertise in the educational area. These issues are critical to the progress of schools in this state, and, ultimately, the welfare of its citizens. In 1957, the citizens of this state conferred general supervisory powers over education and one need not look further than art. XII, § 2 of the State *Constitution* to see that the **\*\*\*843** "general supervision" of state schools is vested in the State Board of Education. <sup>6</sup> Unlike most other administrative agencies which are constituents of the executive branch, the Board enjoys a special standing because such a constitutional provision exists.

#### FOOTNOTES

<sup>6</sup> It is noteworthy that in conjunction with the newly enacted provisions of the State Administrative Procedures Act, the legislature amended *W. Va. Code*, 18-2-5a [1988], which requires the Board to file rules with the legislature. That provision now states:

The state board of education shall file a copy of any rule that it proposes to promulgate, adopt, amend or repeal *under the authority of the constitution* or of this chapter with the legislative oversight commission on education accountability created pursuant to section eleven [§ 29A-3A-11], article three-a, chapter twenty-nine-a. 'Rule,' as used herein, means a regulation, standard, statement of policy, or interpretation of general application and future effect.

(emphasis supplied) Ironically, the constitutional authority of the Board with regard to rule-making continues to be recognized, despite the creation of the legislative oversight commission on education accountability.

**\*\*\*12** **HN10** The rule-making power prescribed by *W. Va. Code*, 18-2-5 [1983] is a provision that has aided the Board's general supervisory functions. The newly enacted provisions of the State Administrative Procedures Act, however, namely, *W. Va. Code*, 29A-3A-12 and -13 [1988], pose an interference with the Board's rule-making power, and consequently, the Board's general supervisory functions.

Therefore, we hold that **HN11** rule-making by the State Board of Education is within the meaning of "general supervision" of state schools pursuant to art. XII, § 2 of the *West Virginia Constitution*, and any statutory provision that interferes with such rule-making is unconstitutional. Consequently, *W. Va. Code*, 29A-3A-12 and -13 [1988] are hereby declared to be unconstitutional. <sup>7</sup>

#### FOOTNOTES

<sup>7</sup> The petitioners point out that because the legislature only meets sixty days per year, the

Board has no way of effecting necessary rules when the legislature is not in session. The respondent rebuts this contention by placing weight on the fact that the legislature also enacted *W. Va. Code*, 29A-3A-16 [1988], which provides for the promulgation and filing of emergency rules. We do not address this point, however, in light of our decision in this case.

We also note that this case is to be distinguished from *Chico Dairy Co. v. West Virginia Human Rights Commission*, 181 W.Va. 238, 382 S.E.2d 75 (W. Va. Dec. 21, 1988). In that case, we held that the administrative agency, the West Virginia Human Rights Commission, derived its rule-making powers from a *statute*, specifically, *W. Va. Code*, 5-11-8(h) [1981], and not from the State *Constitution*. Here, in contrast, we hold that the administrative agency, the State Board of Education, is granted general supervisory powers over state educational matters by the State *Constitution*. In this case, we are invalidating legislative provisions that interfere with the Board's exercise of general supervisory powers.

**\*\*\*13** *HN12* Article XII, § 1 of the State *Constitution*, granting the legislature the authority to establish "a thorough and efficient system of free schools," does not entail the exclusive delegation of rule-making functions that are part of the Board's general supervisory powers pursuant to art. XII, § 2. An attempt to undertake the Board's **\*456** general supervisory powers violates the provision of art. V, § 1 of the State *Constitution* which states: "The legislative, executive and judicial departments shall be separate and distinct, so that neither shall exercise the powers properly belonging to either of the others[.]" Hence, such an attempt is unconstitutional.

Consistent with the foregoing, a rule adopted by the State Board of Education, setting forth minimum requirements for the design and equipment of school buses, is within the meaning of "general supervision" of state schools pursuant to art. XII, § 2 of the *West Virginia Constitution*. *W. Va. Code*, 29A-3A-12 and -13 [1988] interfere with such "general supervision," and, therefore, are unconstitutional.

### III

The respondent maintains that the newly enacted provisions at issue in this case meet the standards for legislative review **\*\*\*14** of administrative rules that we set out in *State ex rel. Barker v. Manchin*, 167 W. Va. 155, 279 S.E.2d 622 (1981). However, in light of our holding that the **\*\*\*844** Board's rule-making authority is *constitutional*, *Barker* has no application to the case now before us because *Barker* involved administrative rules promulgated pursuant to a *legislative* delegation of rule-making power. See also *supra* note 3.

### IV

We now turn to the issue of whether mandamus is a proper remedy in this case. The respondent correctly points out that *HN13* "[a] writ of mandamus will not issue unless three elements coexist--(1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel; and (3) the absence of another adequate remedy." Syl. pt. 2, *State ex rel. Kucera v. City of Wheeling*, 153 W. Va. 538, 170 S.E.2d 367 (1969).

We need not decide, however, whether these three elements coexist in the case now before us, because the petitioners are challenging the constitutionality of *W. Va. Code*, 29A-3A-12 and -13 [1988]. It has been established that "mandamus may be used to attack the constitutionality or **\*\*\*15** validity of a statute or ordinance." *West Virginia Citizens Action Group, Inc. v. Daley*, W. Va. , , 324 S.E.2d 713, 717 (1984) (and authorities cited therein).

Therefore, mandamus is clearly a proper remedy in this case.

V

For the foregoing reasons, the petitioners' request for a writ of mandamus is granted. The respondent is hereby compelled to file rules approved by the State Board of Education in the state register.

Source: **Legal > / . . . / > WV Supreme Court Cases from 1864** | i

Terms: **name(board of education and hechler)** (Suggest Terms for My Search)

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*Meetings Attended by Peter Donovan*  
*03/08/12 to 05/10/12*

- |  |                |
|--|----------------|
| 1. Board of Public Education                                 | 03/08/12       |
| 2. Hearing on ARM for Educator Discipline/ASPC in Dance      | 03/13/12       |
| 3. Education and Local Government                            | 03/22,23/12    |
| 4. Retirement Reception, Commissioner Stearns                | 03/22/12       |
| 5. MSDB Committee, Conference Call                           | 03/28/12       |
| 6. Budget/EPP Training, Nancy Hall                           | 03/29/12       |
| 7. Class 7 Licensure Meeting, OPI                            | 03/29/12       |
| 8. School Staffing Project, Leadership Team                  | 04/03/12       |
| 9. HEA Title II, Conference Call                             | 04/09/12       |
| 10. Chapter 55 Task Force, Leadership Team                   | 04/10/12       |
| 11. OPI School Staffing Data System Demonstration            | 04/12/12       |
| 12. Council of Deans of Education, Conference Call           | 04/12/12       |
| 13. Chapter 55 Task Force                                    | 04/13/12       |
| 14. Montana Indian Education Association Conference, Bozeman | 04/14/12       |
| 15. School Staffing Project, Leadership Team                 | 04/17/12       |
| 16. Montana High School Association Executive Board          | 04/23/12       |
| 17. MSDB Accreditation Meeting, Great Falls                  | 04/24/12       |
| 18. CSPAC, Helena  | 04/27/12       |
| 19. Praxis Client Conference, Princeton                      | 04/30-05/03/12 |
| 20. Board of Public Education, Great Falls                   | 05/10-11/12    |

April 10, 2012

Ms. Patty Myers, Chair  
Board of Public Education  
P.O. Box 200601  
Helena, Montana 59620-0601

Dear Chairperson Myers,

Since October 2010, I have become acquainted with the importance and functions of Montana's Certification Standards and Practices Advisory Council. Please consider this letter as notification that I wish to continue as the high school representative on CSPAC.

I am finally beginning to understand the various aspects of public education and teacher preparation that involves CSPAC. I was delighted to see CSPAC and the Board of Public Education present at the annual Educators' Conference in October. It is necessary for our Montana teachers to grow in their understanding of the important work that these groups perform to ensure excellence in the classroom.

I look forward to learning more about our mission and to actually contribute to our important work. Please consider my request to continue as a member of CSPAC.

Respectfully,

  
Janice K. Bishop



Montana  
**Office of Public Instruction**  
Denise Juneau, State Superintendent

[opi.mt.gov](http://opi.mt.gov)

**Office of Public Instruction**  
P.O. Box 202501  
Helena, MT, 59620-2501  
(406) 444-3095  
(888) 231-9393  
(406) 444-0169 (TTY)  
[opi.mt.gov](http://opi.mt.gov)

March 9, 2012

Denise Juneau  
Superintendent of Public Instruction  
PO Box 202501  
Helena, MT 59620-2501

RE: Nomination to the Montana Advisory Council on Indian Education

Dear Superintendent Juneau:

John Bercier has been nominated by MEA-MFT to represent them on the Montana Advisory Council on Indian Education (MACIE).

Mr. Bercier is currently an art teacher in Butte, Montana. He is a Chippewa/Cree enrolled in Turtle Mountain. He has a B.F.A. in education with a minor in art history and art criticism and a M.F.A. in integrated education from The University of Montana - Missoula,

Please accept this nomination to MACIE on behalf of MEA-MFT.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Hinch", written in a cursive style.

Lynn Hinch  
Acting Director of Indian Education

LH:jmf  
C: Norma Bixby



**Montana  
Office of Public Instruction  
Denise Juneau, State Superintendent**

**opi.mt.gov**

**Office of Public Instruction**  
P.O. Box 202501  
Helena, MT, 59620-2501  
(406) 444-3095  
(888) 231-9393  
(406) 444-0169 (TTY)  
**opi.mt.gov**

To: Montana Board of Public Education  
From: Denise Juneau, State Superintendent   
Date: April 10, 2012  
Subject: Nominee for the Montana Advisory Council on Indian Education (MACIE)

The Bylaws of the Montana Advisory Council on Indian Education (MACIE) state the following in Article 1, Membership: "The membership shall be selected in consultation with Indian tribes, Indian organizations, major education organizations in which Indians participate and schools where Indian students and adults attend. The Board of Public Education and the Superintendent of Public Instruction will jointly make appointments to MACIE."

John Wayne Bercier has been nominated by MEA-MFT. I concur with the recommendation to accept him as a MACIE member and ask the Board of Public Education to consider and approve his nomination.

Thank you.



Montana  
**Office of Public Instruction**  
Denise Juneau, State Superintendent

[opi.mt.gov](http://opi.mt.gov)

Office of Public Instruction  
P.O. Box 202501  
Helena, MT, 59620-2501  
(406) 444-3095  
(888) 231-9393  
(406) 444-0169 (TTY)  
[opi.mt.gov](http://opi.mt.gov)

April 16, 2012

Denise Juneau  
Superintendent of Public Instruction  
PO Box 202501  
Helena, MT 59620-2501

RE: Nomination to the Montana Advisory Council on Indian Education

Dear Superintendent Juneau:

Steve Small has been nominated by the Northern Cheyenne Tribe to represent them on the Montana Advisory Council on Indian Education (MACIE).

Mr. Small is currently working for the tribe as the director of economic development. He also owns a small farm/ranch. He graduated from The University of Montana with a bachelor's degree. He has done some master's study work at MSU Billings in special education with an option in personnel and guidance. Mr. Small has also worked previously at the Busby School of the Northern Cheyenne as an alcohol and drug counselor.

Please accept this nomination to MACIE on behalf of the Northern Cheyenne Tribe.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Hinch".

Lynn Hinch  
Acting Director of Indian Education

LH:jmf  
C: Norma Bixby



**Montana  
Office of Public Instruction  
Denise Juneau, State Superintendent**

**opi.mt.gov**

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**opi.mt.gov**

To: Montana Board of Public Education  
From: Denise Juneau   
Superintendent of Public Instruction  
Date: April 18, 2012  
Subject: Nominee for the Montana Advisory Council on Indian Education (MACIE)

The Bylaws of the Montana Advisory Council on Indian Education (MACIE) state the following in Article 1, Membership: "The membership shall be selected in consultation with Indian tribes, Indian organizations, major education organizations in which Indians participate and schools where Indian students and adults attend. The Board of Public Education and the Superintendent of Public Instruction will jointly make appointments to MACIE."

Mr. Steve Small has been nominated by the Northern Cheyenne Tribe. I concur with the recommendation to accept her as a MACIE member and ask the Board of Public Education to consider and approve her as a member of MACIE.

Thank you.

**ITEM 4**

**COMMISSIONER OF HIGHER  
EDUCATION'S REPORT**

**Commissioner Clayton Christian**

**ITEM 5**

**GOVERNOR'S OFFICE REPORT**

**Dan Villa**

**ITEM 6**

**STUDENT REPRESENTATIVE REPORT**

**Holly Capp**

## EXECUTIVE SUMMARY

DATE: MAY 2012

- PRESENTATION:** Montana Advisory Council on Indian Education (MACIE) Report
- PRESENTER:** Norma Bixby  
MACIE Chairperson  
Office of Public Instruction
- OVERVIEW:** Summary of discussions and actions from the last two MACIE meetings.
- A subcommittee has been formed to research the idea of creating a Native American Studies endorsement.
  - MACIE will invite the Digital Academy director and curriculum coordinator to discuss the integration of Indian Education for All in course offerings.
  - MACIE had the opportunity to thoroughly review the anticipated changes in ARM Chapter 55. The discussion was facilitated by Dennis Parman.
  - MACIE discussed the process that school districts have in place to determine the use of the Indian Student Achievement and At-Risk state funding. The consultation process required by Title VII of ESEA could be a model for districts to receive input from parents and community members on priorities for the state funding. A subcommittee has been formed to review the issue.
  - MACIE is in support of a grant that Dr. Holly Hunts has received to develop a textbook for a human development course in the Montana University System.
  - MACIE will meet at the beginning of August to conduct a retreat, which will be an opportunity to orient new members and discuss MACIE priorities.
  - MACIE will conduct its September meeting at Ft. Peck in conjunction with the Board of Public Education meeting.
- REQUESTED DECISION(S):** Information
- OUTLYING ISSUE(S):**
- RECOMMENDATION(S):** None

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

- PRESENTATION:** Pupil Transportation Information on Seat Belts on School Buses
- PRESENTER:** Donell Rosenthal  
Pupil Transportation Director  
Office of Public Instruction
- OVERVIEW:** The presentation is the summary information from the survey in the use of seat belts on school buses and includes additional safety information.
- REQUESTED DECISION(S):** Information
- OUTLYING ISSUE(S):**
- RECOMMENDATION(S):** None



## May 2012 Board of Public Education Meeting Pupil Transportation Summary

Good morning,

I am here today to provide additional information that was requested at the previous Board of Public Education meeting.

On March 13, I conducted a small survey with school districts that operate their bus routes with a contractor. I requested information based on the following questions:

- Do you pay drivers by the mile or hour?
- What is the rate paid?
- How often are contracts negotiated?
- Do your buses have seat belts?
- Do you plan on installing seat belts?
- What are your thoughts about seat belts?

Overall I received 34 responses from school districts, and I have summarized them as follows:

- Paid per mile: 15 Districts
- Paid by the hour: 13 Districts
- Paid by the route: 2 Districts
- Paid by the day: 3 Districts
- Contracts negotiated yearly: 9 Districts
- Contracts negotiated every five years: 18 Districts
- Contracts negotiated every three years: 4 Districts
- No seat belts on buses: 32 Districts

Individual district responses are included in the attached spreadsheet.

Special education buses are not included in this survey, as they are already equipped with seat belts. You will notice on page 3 of the spreadsheet, Lambert Public Schools has seat belts on two of their four buses, with no plans of retro-fitting their other two buses. On page 2, Stevensville Public Schools has three-point seat belts in the first three rows on one of their buses (this is where the smallest riders sit).

Helena Public Schools operates their school buses through First Student. I was able to contact John Carter, Director of Support Services for Helena Public Schools, regarding the implementation of seat belts for their school buses. I have been told that the district just awarded the contract and the addition of seat belts on their 10,000 GVW fleet won't occur until the 2012-13 school year.

As you are probably aware, the district has had seat belts on the less than 10,000 GVW (special needs) buses for over 10 years, so the addition only impacts a portion of the fleet. The use of seat belts will be added to the student handbook expectations for student behavior on the bus and treated the same as other conduct items on buses. Identification of under 6-years-old and 60-pounds students (primarily kindergarten riders) will be accomplished during bus rider and student registration (same as on special needs buses).

Seat belts have been used for special needs and preschool, and will be implemented on larger buses. Regular education drivers will be instructed on expectations and seat belt use. The district is creating a video of proper Integrated Child Seat use for kindergarten instructors. Large buses will be equipped with seat belt cutters, just like the ones on the smaller buses.

The same evacuation procedures will apply, however, the addition of seat belt removal will now be included in these procedures, as per John Carter.

The cost is the differential between seat systems with seat belts and/or integrated child seats versus regular bench seats. As the district is receiving the new fleet, which is why the timing for this decision was prudent, the additional costs should be affordable. Costs were estimated between \$7,500 - \$10,000 per bus at the time of the bid, per the manufacturer and how the integrated child seats would be configured. The district also opted for an interchangeable seat called Flex seat; more information is available on the manufacturer's Web site at the following link: <http://www.safeguardseat.com/industries/school-transportation/bus-seating/flexseat/>. Significant changes have been applied by adding the requirement to use seat belts as part of the code of conduct rules within the handbook – the district should know more once it's implemented next year. I think one of the things that is beneficial to the Helena School District is that they have been using seat belts on about 20-25 percent of their fleet for quite some time (smaller special education buses) and that the larger buses are one of the few, if not only, vehicles that students have ever ridden in that don't require the use of seat belts.

I have been invited to visit the district to review the procedures and see the buses when they arrive (which should be toward the end of July 2012). One advantage is that First Student Transportation operates in states that require seat belts, so they can provide additional guidance to the district and the Helena branch based on previous experience.

Although the Helena School District is underway with seat belt operation, other districts operating buses with seat belts seem to be concerned with student management, emergency evacuations and the expense of adding seat belts.

Their issues and questions consist of:

1. If seatbelts are added to school buses, who will be responsible for assuring students are wearing their seatbelts, and how will this be managed?
2. What will the consequences be if they do not wear their seatbelts?
3. How and who will manage the use of belt cutters?
4. Could the belt cutters be a safety concern?

Obviously this raises concerns, as the bus driver's attention cannot manage these additional duties.

If students are required to wear seatbelts, this could ultimately cause an emergency evacuation to be slowed considerably and even cause more harm to the students. School districts are concerned with the added expense, such as the cost of retrofitting, buying new school buses that are equipped with seatbelts, and losing capacity in school buses.

Currently students that ride on school buses without seatbelts are protected by “compartmentalization”- strong, closely spaced seats that have high, energy-absorbing backs. Federal law already requires seatbelts on school buses weighing less than 10,000 pounds. Larger ones still remain exempt due to the compartmentalization theory. Federal Motor Vehicle Safety Standard (571.220) refers to the performance requirements for school bus rollover protection. However, there are a few states such as Florida, New Jersey, and New York that do require two-point belts on their big and small school buses. Even though these states have taken action on enforcing seatbelts on their school buses, an argument against them still remains; stating that improperly worn seatbelts can cut into kid’s bodies in a serious crash, causing more injuries than they prevent. Last year, the DOT proposed the requirement of lap and shoulder belts to be used on motor coaches which travel at high speeds between cities. This rule however, has not yet been finalized.

For your information, I have included five graphs which provide information on the types of school bus accidents that have occurred in the state of Montana from 2006 to 2010. I would like to point out on the first graph Montana has had a 1 percent fatality rate. Property Damage Only (PDO) has occurred in 83 percent of the accidents.

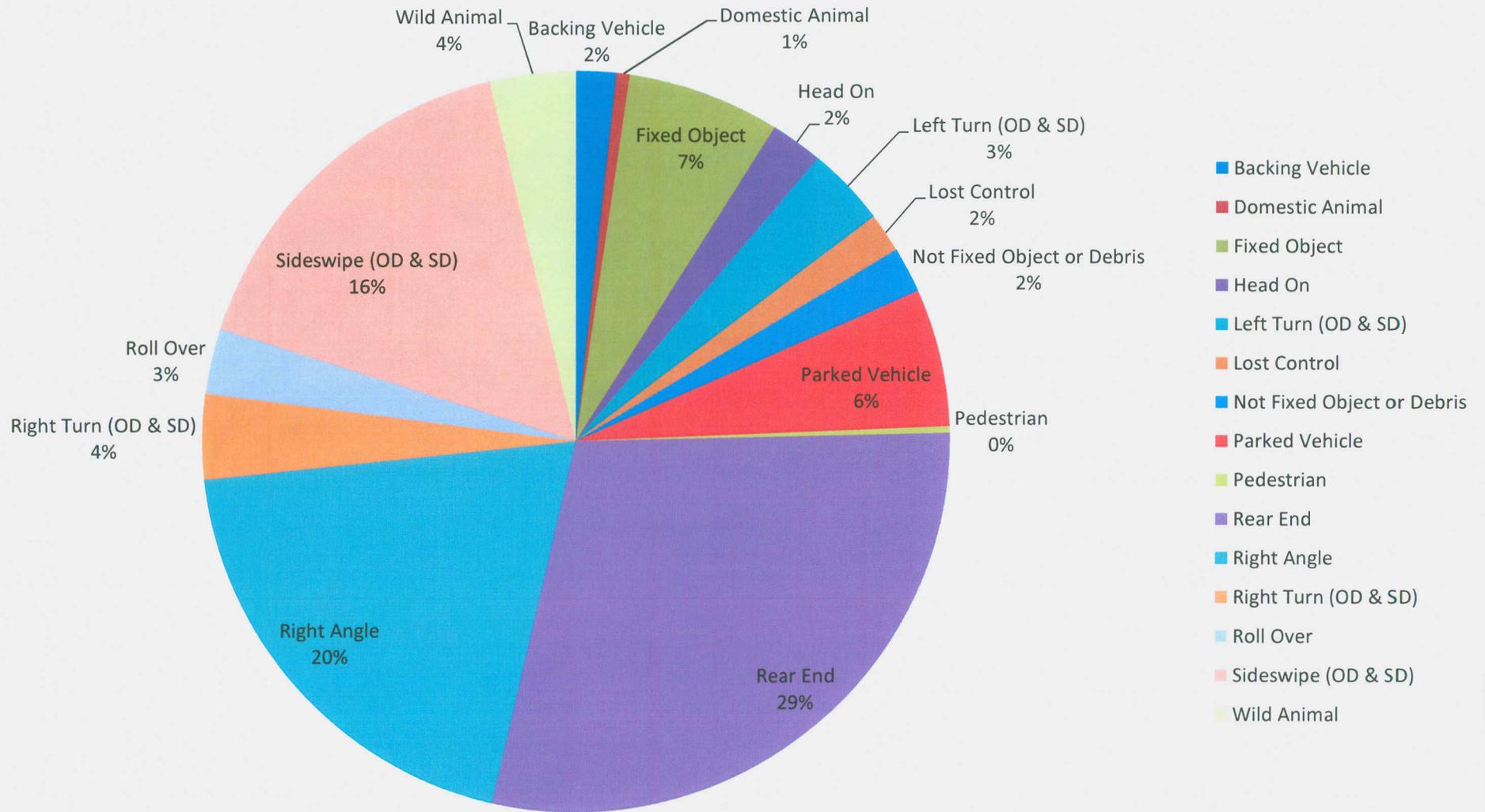
For your review, I have brought three copies of DVDs from Safeguard, which include case studies on the use of seatbelts, as well as a DVD titled, Why Seat Belts on School Buses?

I am always happy to provide information and to help in every way regarding the use and safety of seatbelts for our K-12 students.

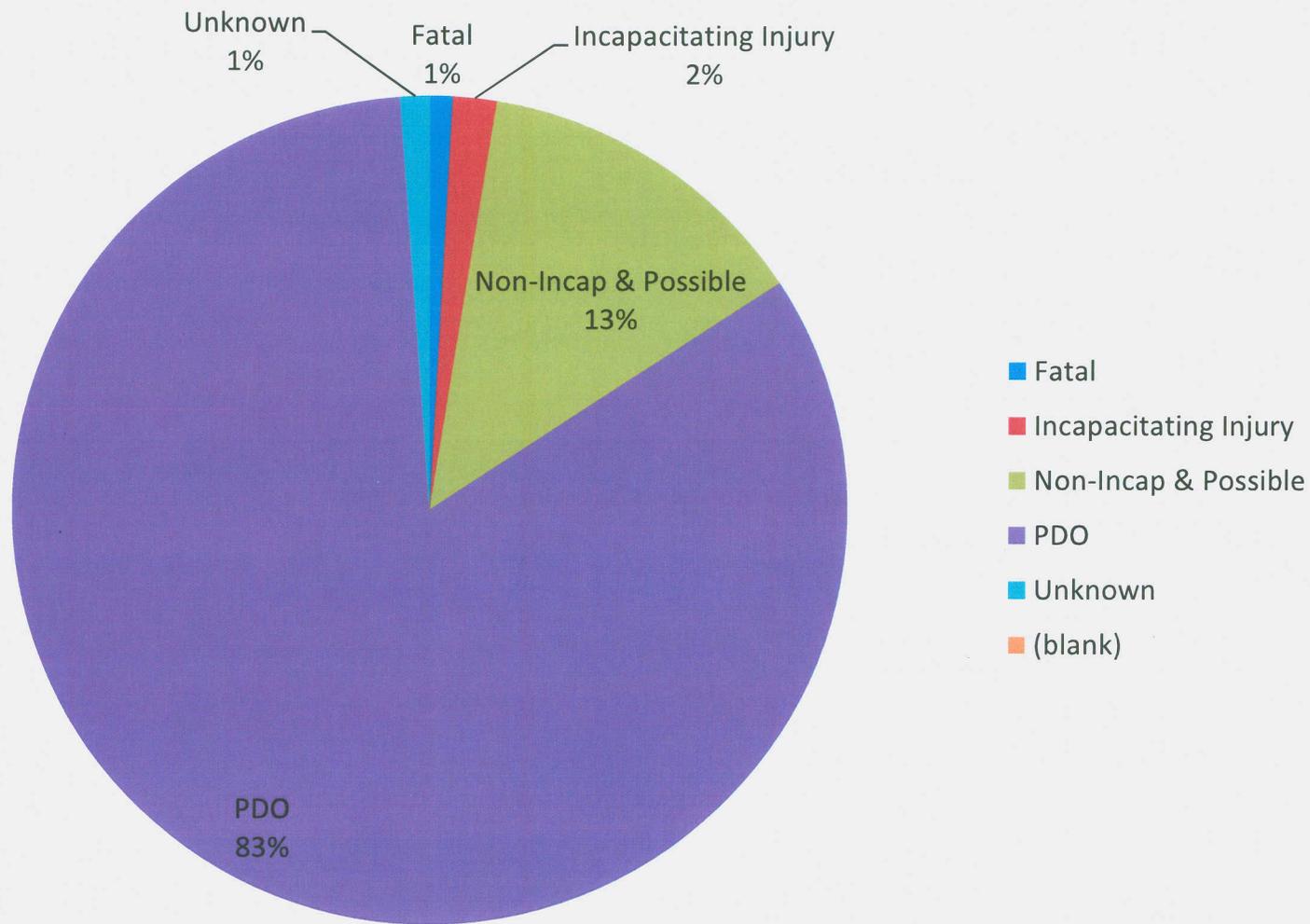
Thank you for giving me the opportunity to share seatbelt safety information.

Donell Rosenthal, Director of Pupil Transportation

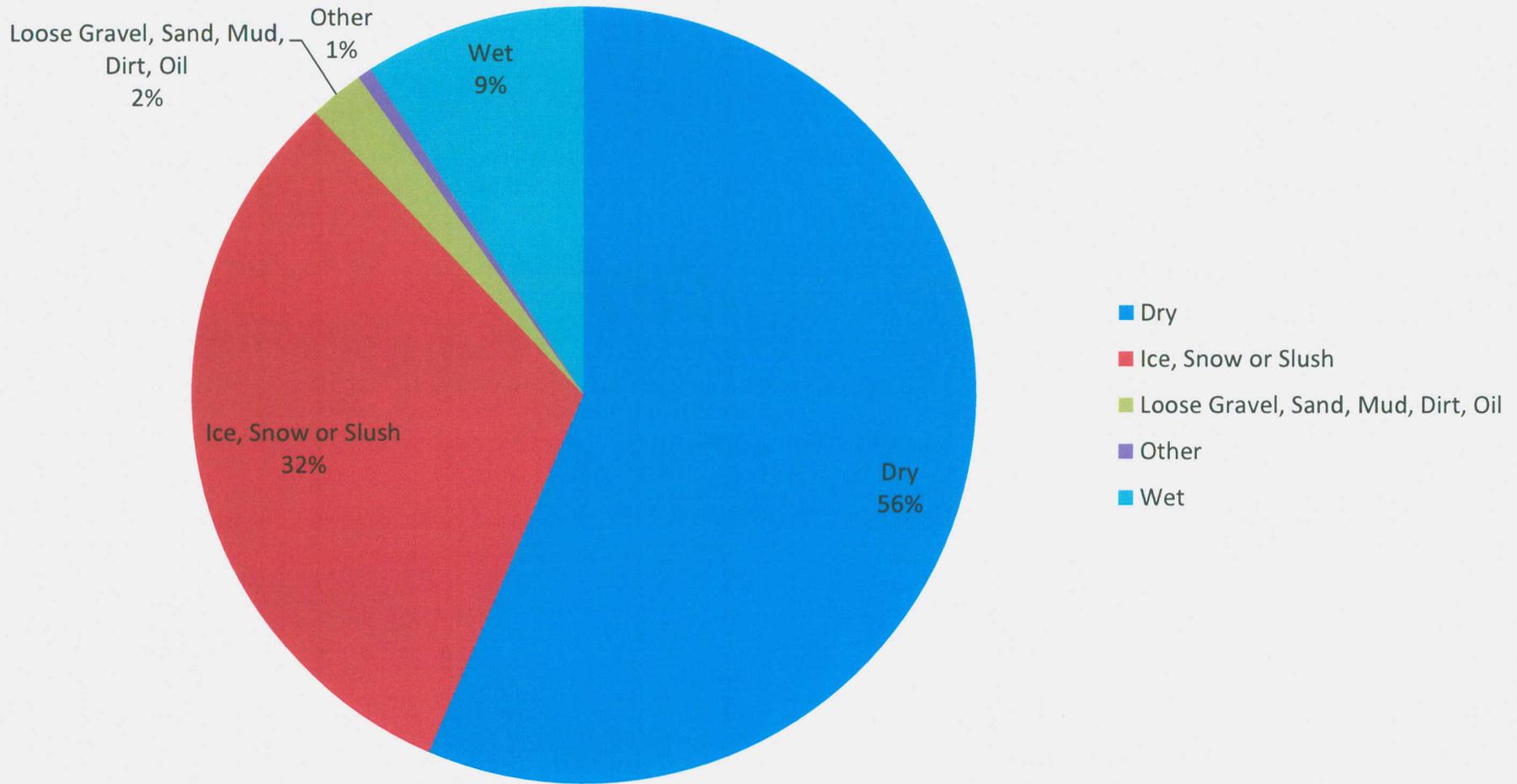
### School Bus Crashes - Collision Type January 1, 2006 - December 31-2010



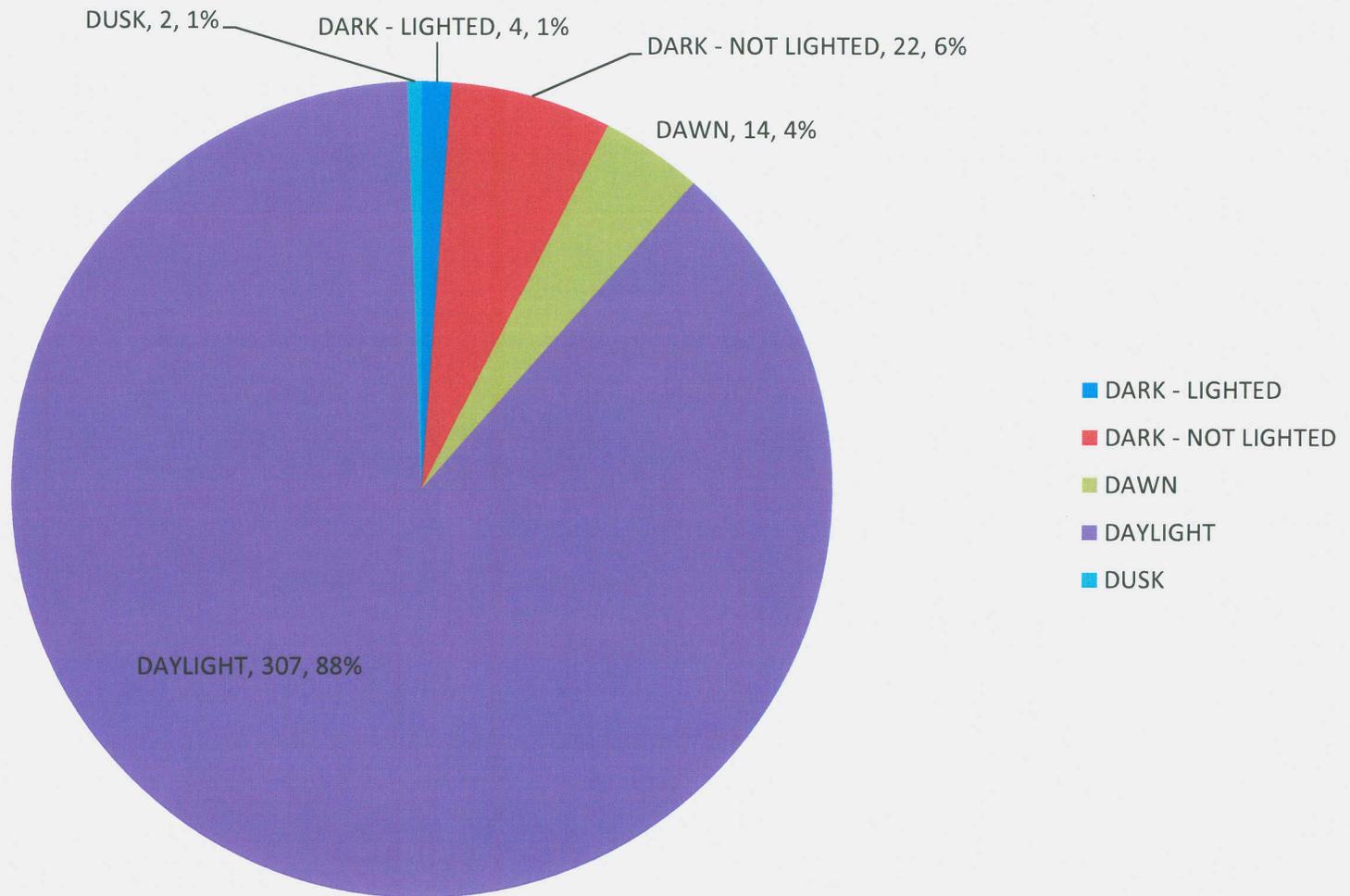
### School Bus Crashes - Crash Severity January 1, 2006 - December 31-2010



### School Bus Crashes - Road Condition January 1, 2006 - December 31-2010

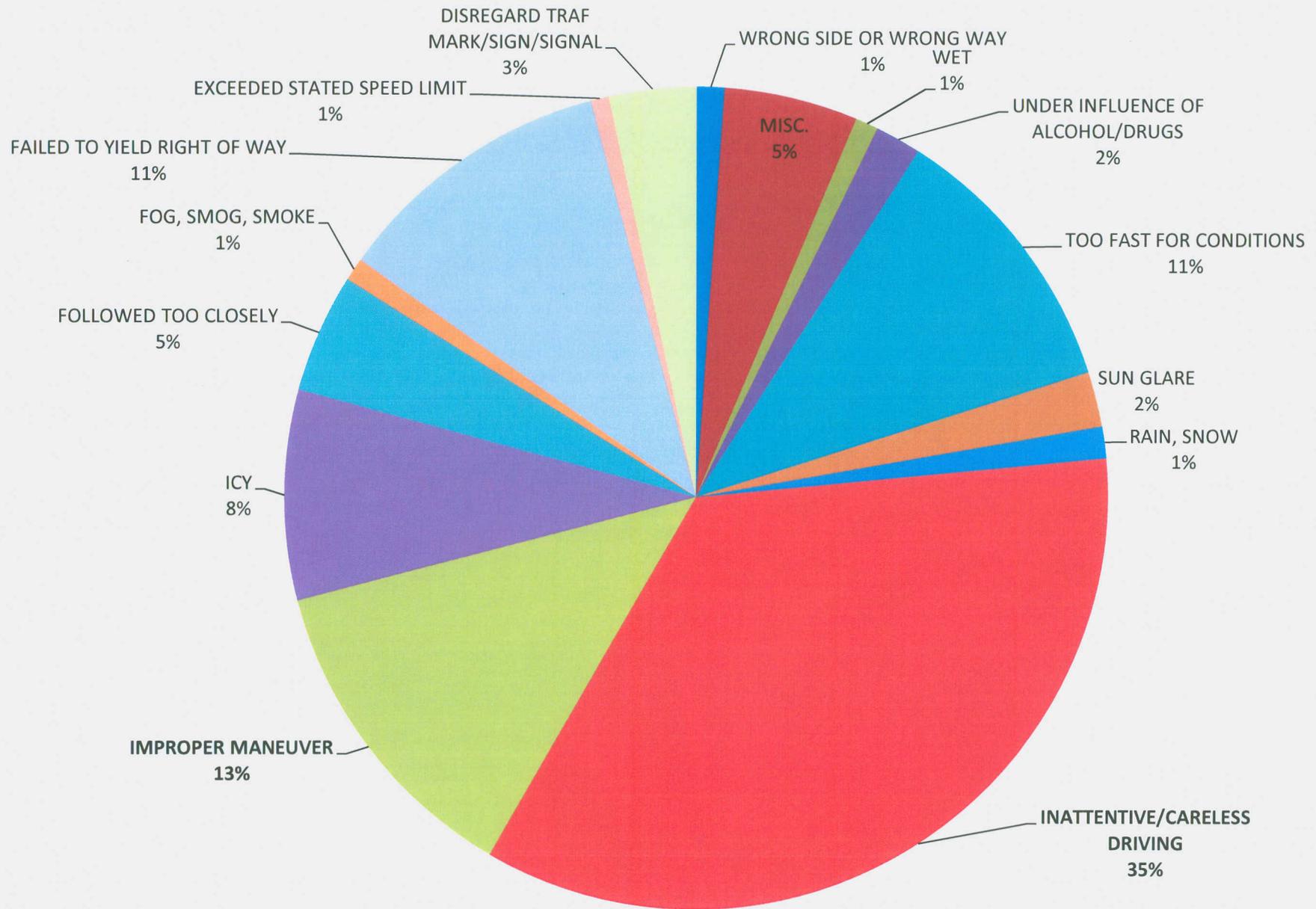


## School Bus Crashes - Light Condition January 1, 2006 - December 31-2010



# School Bus Crashes - Contributing Circumstances

## January 1, 2006 - December 31-2010



## Information on Seat Belts and Rates for the Board of Public Education May 10-11, 2012

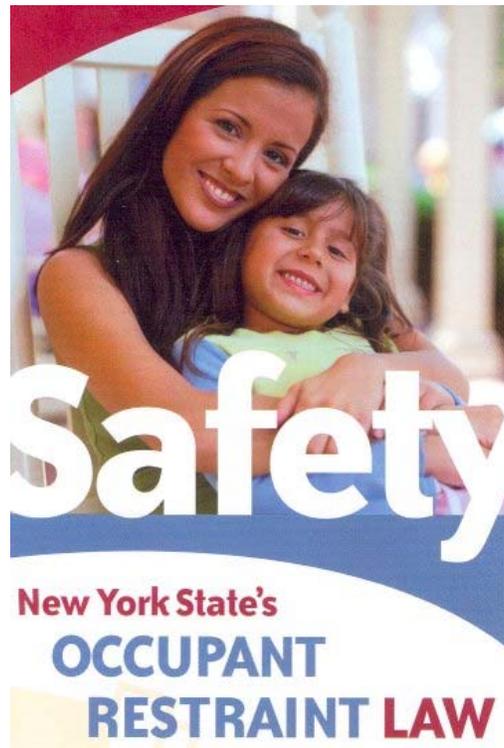
<b>School Districts</b>	<b>Comments and Concerns</b>
<b>Bozeman Public Schools (Gallatin County)/No Seat Belts</b>	<b>Evacuation Concern/Enforcement/Too Expensive</b>
Bozeman contract is by the mile, \$3.76/mile for regular students, \$4.25/mile for special education students. Review/negotiate contract yearly.	
<b>Fairview School District (Richland County)/No Seat Belts</b>	<b>Evacuation Concern/Fire</b>
Drivers are paid by the mile; the rate differs for each route, based on the number of miles driven. The contracts are negotiated every five years.	
<b>West Glacier Elementary (Flathead County)/No Seat Belts</b>	
West Glacier contract is paid per mile; the contract is \$66,717.72 for school year 2011-12. The contract is reviewed yearly, a change from a five-year review.	
<b>Clinton Elem (Missoula)/No Seat Belts</b>	<b>Enforce use of Seat Belts</b>
Drivers are paid a day rate of \$30.60 to \$31.80/day. The contracts are negotiated annually.	
<b>Culbertson Public Schools (Roosevelt)/No Seat Belts</b>	
Culbertson schools contract with five contractors on six routes, contractors are paid by the mile and the different rates depend on the size of the bus and the condition of the routes. The contracts run for five years and are guaranteed raises each year of the contract.	
<b>Chinook Public Schools Blaine)/No Seat Belts</b>	<b>Willing to Install</b>
Chinook Schools contracts by the hour. The contracts are negotiated every three years.	

<b>Missoula County Public Schools/No Seat Belts</b>	<b>Too Expensive/Evacuation Problem</b>
Drivers are paid by the route. The average route is 2.5/hours/day (urban area) paid as a gross daily rate. Some routes are longer and the rate may be adjusted. The rate varies based on longevity- between \$30/day-works out to be \$12.50/hour or up to \$50/day.	
<b>Montana City Elementary (Jefferson County)/No Seat Belts</b>	<b>Willing to Install</b>
Contractors are paid \$31,847/bus (three buses total) for school year 2011-12 plus fuel. This contract is for three years and will end next school year.	
<b>Wibaux K-12 Schools (Wibaux County)No Seat Belts</b>	
Wibaux's regular route drivers are paid an hourly rate. The substitute activity drivers are also paid an hourly rate; however, the substitute route drivers receive a flat rate. Review/negotiate contracts yearly.	
<b>Seeley Lake Elementary (Missoula County) No Seat Belts</b>	<b>Enforcement Problem/Too Expensive</b>
Seeley Lake contracts with a local person. Under the contract, a mileage rate is paid. The drivers are paid \$9.50/hour for standby time when not driving. Drivers are paid minimum wage for standby, but the additional amount goes toward paying social security, unemployment and workers' compensation. The contracts are negotiated every five years with a year-by-year opt out clause.	
<b>Fortine Elementary (Lincoln County) No Seat Belts</b>	<b>Enforcement Problem/Emergency Concerns</b>
Drivers are paid \$140.70/day based on 40 miles per day. The contracts are reviewed yearly.	
<b>Libby K-12 Schools (Lincoln County) No Seat Belts</b>	
Drivers are paid \$1.98/pavement mile and \$3.52/gravel mile. The district pays for fuel. There are two buses; the second bus is \$53.81/day. The contracts are negotiated every year.	
<b>Stevensville Public Schools (Ravalli County) No Seat Belts</b> <b>One New Bus with 3-Point Seat Belt in the First Three Rows for the Smallest Riders</b>	

Drivers are paid \$21/trip for the morning/afternoon. The district has a five-year contract.	
<b>Baker K-12 Schools (Fallon County) No Seat Belts</b>	
Bus drivers are paid by the mile. The base rate is \$3.07 but it depends on the price of diesel with an escalator clause of \$.01/mile for every \$.05 increase in the diesel price with a \$3.50 base price.	
<b>Great Falls Public Schools</b>	
Drivers are paid \$9.75-\$11/hour with two hours guaranteed for morning/four hours for afternoon. Contracts are negotiated every five years.	
<b>Cayuse Prairie Elementary (Flathead County) No Seat Belts</b>	<b>Too Expensive</b>
Bus drivers are paid \$5.72/mile. Negotiate contracts every year.	
<b>Jefferson High School (Jefferson County) No Seat Belts</b>	
Drivers are paid by the route and or by the mile. The rates are \$16 to \$18.50 /route depending on the length/\$.25/mile on activities. Contracts are negotiated 3-5 years.	
<b>Kinsey Elementary (Custer County) No Seat Belts</b>	
Contracted services are paid at a rate of \$2.70/mile/day. The contract is negotiated annually. A teacher rides the bus as an aide and is paid \$15/day. This has worked well and has cut down on behavioral issues.	
<b>Lambert Public Schools (Richland County) 2 of the 4 Route buses have Seat Belts No plans to retro-fit old buses</b>	
Drivers are \$. 80/mile. Contracts are five years. Any new buses purchased will have seat belts.	
<b>Trinity Elementary (Lewis &amp; Clark County) No Seat Belts</b>	<b>Accident Concerns</b>
The driver is paid \$14/hour. The contract is renewed every year.	
<b>Plains Public Schools (Sanders County) No Seat Belts</b>	<b>Accident Concerns/Evacuation</b>

Drivers are paid \$15.25/hour, but the route will pay three hours/day. Actual time on duty is usually 2.5 hours/day. The driver keeps the bus clean and fueled. Contracts are for five years.	
<b>Townsend K-12 Schools (Broadwater County) No Seat Belts</b>	<b>Too Expensive</b>
Drivers are paid by the hour. Last contract was three years with an option of five.	
<b>Corvallis K-12 Schools (Ravalli County) No Seat Belts</b>	<b>Enforcement Problem</b>
Contracts are based on per mile rate and are negotiated every three years.	
<b>Morin Elementary (Yellowstone County) No Seat Belts</b>	<b>Seat Belts a Good Idea for Students</b>
Drivers are paid by the hour. Contracts are negotiated every year. The rate is determined by the CPI rate in the month of April.	
<b>Lockwood Elementary (Yellowstone County) No Seat Belts</b>	<b>Willing to Add Seat Belts</b>
Drivers are paid hourly. Contracts are negotiated every five years.	
<b>Harrison K-12 Schools (Madison County) No Seat Belts</b>	
Drivers are paid \$12/hour for actual driving and \$8/hour for down time on extracurricular trips. Contracts are negotiated every five years.	
<b>Swan Valley Elementary (Missoula County) No Seat Belts</b>	
Drivers are paid by the hour; \$15/hour and negotiated one to five years.	
<b>Paradise Elementary (Sanders County) No Seat Belts</b>	<b>Accident Concerns</b>
The drivers are paid per mile. Regular route is \$2.89 and extracurricular are \$1.80/per three miles. Contracts are negotiated every five years.	
<b>Billings Public Schools (Yellowstone County) No Seat Belts Special Education Buses Equipped with Seat Belts</b>	<b>Too Expensive/Evacuation Problem/Seat Belts Reduces Bus Capacity</b>
Paid by the hour at an average of \$13.69 rate and negotiated every 3-5 years.	

<b>Zurich Elementary (Blaine County) No Seat Belts</b>	<b>Evacuation Problem</b>
Contractors are paid by the mile at \$1.87/mile, but with gas adjustment it is considerably more. Renegotiate every five years.	
<b>Turner Public Schools (Blaine County) No Seat Belts</b>	
Drivers are paid by the mile. The rates vary and range between \$1.70 to \$1.89. Negotiate contracts every two years. There have been two accidents in the past 25 years that were minor due to snow and the bus sliding into a ditch.	
<b>Great Falls Public Schools (Cascade County) No Seat Belts Special Education Buses Equipped with Seat Belts</b>	<b>Too Expensive/Evacuation Problem/Reduces Bus Capacity</b>
Drivers are paid by the hour at two hours minimum/shift starting at \$9.75/hour. The contracts are for five years.	
<b>Plains Public Schools (Sanders County) No Seat Belts</b>	
Drivers are paid on a per-mile basis at a rate of \$3.80 and contracts are negotiated every five years.	
<b>Noxon Public Schools (Sanders County) No Seat Belts Seat Belts Installed on 2 Route Buses in the Front Seats</b>	
Route drivers are paid by the trip of \$18/hour. Activity bus drivers are paid at \$.25/mile and a minimum of \$7.65/hour. Contracts are negotiated every five years.	



Seat belts save lives and help prevent serious injuries in a traffic crash. This is why New York State requires seat belt use by adults in motor vehicles, and seat belts, booster seats, or child safety seats for children.

New York is a "primary enforcement" state. A law enforcement officer can issue a traffic ticket just for failure to wear a seat belt. A ticket can be issued to the driver who fails to make sure a child passenger is properly secured in a safety seat or with a seat belt. This law also applies to visitors from outside New York State.

#### Highlights of New York State's occupant restraint law:

- In the front seat, the driver and each passenger must wear a seat belt, one person per belt. The driver and front-seat passengers aged 16 or older can be fined up to \$50 each for failure to buckle up.
- Every occupant, regardless of age or seating position, of a motor vehicle being operated by the holder of a Class-DJ Learner Permit, a Limited Class-DJ, or Class-DJ Driver License must be restrained by a safety restraint.
- Each passenger under age 16 must wear a seat belt or use an appropriate child safety restraint system. The restraint system must comply with the child height and weight recommendations determined by the manufacturer. Depending on the size of the child, the restraint system may be a safety seat or a booster seat used in combination with a lap and shoulder belt.
- The driver must make sure that each passenger under age 16 obeys the law. The driver can be fined \$25 to \$100 and receive three driver license penalty points for each violation.
- Seat belt use is not required in taxis or livery vehicles, emergency vehicles, 1964 or older vehicles, or by passengers in buses other than school buses (seat belt use may be required by the school district). Rural letter Carriers are also exempt while they are delivering mail.

*Tip: Keep your seat belt tight but comfortable.*

#### CHILDREN IN SEAT BELTS

Every child under age 16 in the vehicle must use a safety restraint. If under age four, he or she must be properly secured in a federally-approved child safety seat that is attached to a vehicle by a safety belt or universal child restraint anchorage (LATCH) system. A child under age four who weighs more than 40 pounds may be restrained in a booster seat with a lap and shoulder belt. A child of age 4, 5, 6 or 7, must use a booster seat with lap and shoulder belt or a child safety seat (The child and safety restraint system must meet the height and weight recommendations of the restraint manufacturer.)

Exception: A child more than four feet nine inches tall or more than 100 pounds is allowed to use a seat belt that has both a lap belt and a shoulder harness. To use the seat belt, the child must be able to sit straight up against the vehicle's seat back with his or her knees bent comfortably over the edge of the seat. The lap belt should be placed low and tight across the upper thighs; the shoulder belt should rest tightly but comfortably across the child's chest and shoulder (collar bone) without touching the throat. If the seat belt does not fit properly, the child should use a booster seat with a lap and shoulder belt.

**A booster seat can be used only with a lap and shoulder belt together.** If all the combination lap and shoulder belt positions in the vehicle are already occupied by children using child safety seats or booster seats, a child who ordinarily would use a booster seat should be restrained using only the lap belt.



*An appropriate child safety restraint system:*

- Is required for all children until their 8th birthday and,
- Must meet the size and weight requirements for the child based on the Federal requirements and the recommendations of the manufacturer, and
- Can be a child safety seat, a harness, a vest or a booster seat attached with the vehicle seat belt or latch system, but not the vehicle seat belt *alone*, and
- Should *not be used in the front seat of the vehicle.*

If the child is eight years old and is under 4'9" tall or weighs less than 100 lbs, it is *recommended* that you continue to use a child restraint system.

### SEAT BELTS ON SCHOOL BUSES

New York State law requires that large school buses manufactured after July 1, 1987, be equipped with seat belts, and that schools make them accessible to each vehicle occupant. Every school bus driver is required to wear a seat belt, and children under the age of four must ride in properly installed, federally-certified

child safety seats. Each school district sets its own policy for seat belt use by the other passengers.

### SEAT BELTS IN SCHOOL VEHICLES

In a school vehicle which is not built to meet federal school bus construction standards, New York State Law requires that all children must ride in a properly installed, federally-certified child safety seat or booster until their 8th birthday. Vehicles of these types include school cars, vans, suburbans and SUVs.

### WHY YOU NEED TO WEAR A SEAT BELT

A seat belt absorbs the force of impact in a traffic crash and reduces your risk of being killed or injured. It holds you securely to help prevent you from striking hard objects inside the vehicle while being tossed around. You are less likely to be thrown (ejected) through the vehicle's windshield or doors - and vehicle ejection usually results in death.

Your seat belt offers the most protection when you sit upright. Most seat belts easily adjust to allow some comfort and free movement until you need it for protection. To properly wear your seat belt, the lap belt portion should be tight but comfortable across your upper thighs at your hip joints and the shoulder belt should rest snugly across your chest and shoulder, away from your face or neck. Never place the shoulder belt behind your back or under your arm. Improper use of a seat belt or shoulder belt can cause internal injuries in a crash.

### PREGNANT WOMEN

If you are pregnant, your seat belt can help protect yourself and the baby you are expecting. Make sure the lap belt is low on your hips, under your abdomen, and the shoulder belt is resting closely and comfortably across your chest and shoulder.

*Tip: During wintry conditions, you may have to loosen a heavy coat or lift it out of the way so it does not interfere with the proper adjustment of the seat belt.*

### MEDICAL EXEMPTION

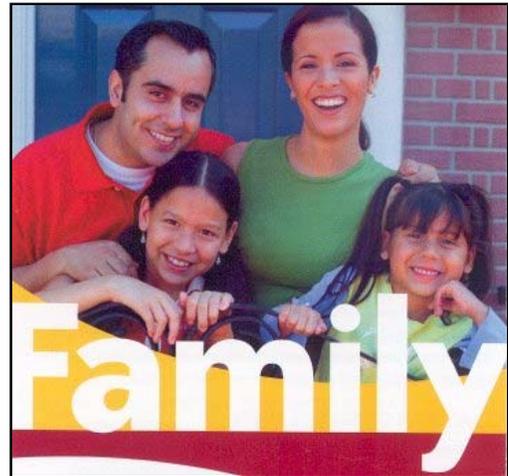
For almost every medical problem or physical situation, wearing a seat belt increases your protection against death or serious injury. However, if a physical condition inhibits the proper use of a seat belt, you may be exempt from the seat belt law if your doctor certifies your condition and exemption in writing. Certification must be on the physician's letterhead and carried with you when you travel. For more information, see publication "Guidelines for Granting Medical Exemptions from Seat Belt Use" (C-58), available from the DMV Internet Office, by request from a DMV Call Center, and at any motor vehicle office.

### AIR BAGS

An air bag provides extra protection against crash injuries. It works with seat belts, and does not replace them. An air bag helps protect a front-seat occupant in a head-on or side crash by inflating upon impact. This rapid inflation cushions the occupant from collision with the steering-wheel, dashboard, windshield, side windows, or metal doorframe.

Air bags deploy (expand rapidly) from the steering wheel and/or dashboard, and, in some vehicles, from the side doors beneath or above the window. The force of an air bag deploying may injure those who sit too close to it. Make sure to sit with at least 10 inches between the center of your breastbone and the air bag cover. If you are the vehicle's driver, place your hands on the steering-wheel at the 3 and 9 o'clock positions to keep them out of the way of air bag deployment. For maximum protection, children under the age of 12 should sit in the rear seat of the vehicle.

*Tip: Never put an infant in a rear-facing child safety seat in the front seat of a vehicle that has an air bag on or in the dashboard.*



**New York State Department of Motor Vehicles**  
Andrew M. Cuomo, Governor  
Barbara J. Fiala, Commissioner



More information on occupant protection may be found on [SafeNY.ny.gov](http://SafeNY.ny.gov)



*C-1 (1/11) Edited for the Internet 4/11*

**Location:**

SCHOOLS - TRANSPORTATION; SEAT BELTS;



February 2, 2010

2010-R-0055

**STATE LAWS REQUIRING SEAT BELTS IN SCHOOL BUSES**

By: Paul Frisman, Principal Analyst

You asked for information about state laws requiring seat belts on school buses.

**SUMMARY**

Six states—California, Florida, Louisiana, New Jersey, New York, and Texas—require seat belts on school buses. In addition, the University of Alabama is completing a study assessing the impact of installing seat belts on a limited number of school buses in that state.

New York was the first state to require school bus seat belts. The Louisiana and Texas laws do not take effect unless those states obtain adequate funding. California requires, and Texas would require, school buses to have lap/shoulder (“three-point”) belts, rather than lap belts. Some of the laws, such as those in California, Florida, and New Jersey, address liability issues. Some, such as California's and Florida's, require that elementary school students get priority for buses equipped with seat belts. New York's law allows local school boards to decide if students must use the seat belts.

We provide background and describe these laws below. We also have attached copies of the school bus seat belt laws of the six states, and a relevant January 18, 2010 *Hartford Courant* article.

**BACKGROUND ON SCHOOL BUS SEAT BELTS**

Federal school bus seat belt requirements depend on the size of the bus. The National Highway Traffic Safety Administration (NHTSA), which sets national standards for school bus safety, requires seat belts on school buses weighing less than 10,000 pounds, but does not require seat belts on larger school buses, which comprise more than 80% of the nation's school bus fleet (49 CFR 571.222). However, individual states and school districts can require buses weighing 10,000 pounds or more to have seat belts. Six states do so, although implementation in two states depends on funding.

Federal school bus requirements refer to two different types of seat belts: (1) lap belts and (2) lap/shoulder, or three-point, belts. A lap belt is an adjustable strap that goes over the waist. Three-point belts are a lap belt plus an adjustable sash that goes over the shoulder, made of one single continuous length of webbing. Studies have shown that three-point belts provide more protection than lap belts.

In 2009, NHTSA upgraded its school bus seat belt requirements, requiring, among other things, that small school buses have three-point belts, rather than lap belts, and setting performance standards for three-point belts voluntarily installed on large school buses.

Please see OLR Report 2009-R-0419 for more information on school bus safety and seat belts.

## **STATE LAWS REQUIRING SEAT BELTS ON SCHOOL BUSES**

### ***California***

California requires three-point seat belts on (1) school buses manufactured on and after July 1, 2005 that carry more than 16 passengers, and (2) all other school buses manufactured on and after July 1, 2004. It asks school transportation providers to first allocate seat-belt equipped school buses for elementary school students whenever possible. The state cannot charge any person, school district, or organization with violating this law if a passenger either does not fasten his or her seat belt, or does so improperly (Cal. Veh. Code § 27316).

State regulations require school bus passengers to (1) use the seat belts; and (2) be taught how to use them in an age-appropriate manner (Cal. Code Regs. Title 5, § 14105).

### ***Florida***

Florida law requires new school buses purchased on and after January 1, 2001 to be equipped with seat belts or other federally-approved restraint system, and requires each school bus passenger to wear a properly adjusted belt when the bus is operating. It exempts (1) the state; (2) counties; (3) school districts; and (4) school bus operators and their agents, including teachers and volunteer chaperones, from liability (1) for personal injury to a school bus passenger caused solely because the passenger was not wearing a seat belt, or (2) for an injury to a passenger caused solely by another passenger's use or non-use of a seat belt in a dangerous or unsafe manner. It requires school districts to ensure that elementary schools receive first priority when they allocate school buses with seat belts, and exempts certain vehicles not used exclusively to transport public school students (Fla. Stat. Ann. § 316.6145 and § 1006.25 (1) (b)).

### ***Louisiana***

Louisiana requires the state Board of Elementary and Secondary Education to (1) adopt rules and regulations requiring every bus used primarily to transport students to be equipped with seat belts by June 30, 2004, and (2) require the governing authority of each public and private school to comply with these rules and regulations. However, Louisiana makes compliance with the law contingent on the appropriation of funds (La. Rev. Stat. § 17:164.2). According to Louisiana

education department consultant Gerald Saucier, funding for the program does not seem likely in the near future.

### ***New Jersey***

New Jersey requires school buses to have lap belts or other child restraint systems that meet federal standards and certain minimum seat back heights. It requires students to wear a properly adjusted and fastened seat belt while the bus is operating, and relieves school bus owners and operators of liability for a passenger's failure to wear a seat belt if that failure directly results in an injury to the passenger (N.J. Stat. Ann. § 39:3B-10 and § 39:3B-11).

### ***New York***

New York requires school buses manufactured for use in New York on and after July 1, 1987 to have seat belts and increased seat back padding on all passenger seats. It requires school buses scheduled for retrofitting to have these same modifications, but exempts certain older buses from this requirement and allows the motor vehicle commissioner to exempt certain others. However, New York allows individual school boards to determine whether their students must use the seat belts (N.Y. Veh. & Traf. § 383 (5) and N.Y. Educ. 3635-a (1)). According to Peter Mannella, executive director of the New York Association for Pupil Transportation, only about 35 of the state's 690 school districts require their students to use the belts.

### ***Texas***

Texas requires each (1) bus purchased by a school district starting September 1, 2010 and (2) school-chartered bus contracted for use by a school district starting September 1, 2011, to be equipped with three-point seat belts for the passengers and the driver. But the requirement takes effect only if the legislature appropriates money to reimburse school districts for the cost of installing the belts. According to John Ralph, of the Texas Association for Pupil Transportation, the state has appropriated \$10 million for equipping buses with seat belts, contingent on the legislature's approval of an implementation plan. Ralph states that the \$10 million is enough to equip approximately 1,500 of the 2,500 new school buses Texas school districts acquired in the 2008-09 school year. He said Texas has about 39,000 school buses operating in the state.

Texas requires the state board of education to develop and provide to each school district instructions on the proper use of three-point seat belts, and makes the board the clearinghouse for districts seeking information on school bus safety, including complying with the seat belt law using school buses originally purchased without seat belts. Under the law, school districts must require students to wear seat belts on buses equipped with them, and they may develop a disciplinary policy to enforce the seat belts' use.

The law allows people to donate three-point seat belts, or money for their purchase, and allows a school district's board of trustees to acknowledge this by displaying a "small, discreet" sign on the side or back of the bus. (But the sign may not be an advertisement for the donor.)

It also requires each school district to file an annual report with the Texas Education Agency on accidents involving its school buses. The report must include information on (1) the type of bus involved, (2) whether it had seat belts, (3) the number of students and adults involved in the accident, (4) the number and types of injuries sustained by the bus passengers, and (5) whether the injured passengers were wearing seat belts at the time of the accident. The agency must publish the reports on its website (Texas Tran. Code Ann. § 547.701 (e) and Ed. Code Ann. § 34.012 through 34.015).

### **ALABAMA STUDY**

The University of Alabama's Transportation Center is completing a three-year, state-funded study of the impact of installing three-point seat belts on 12 specially-equipped school buses in that state. The buses have video cameras installed to collect data on various aspects of seat belt use and their effect on student behavior. Researchers also are (1) studying (a) national data, including prior safety studies; (b) Alabama school bus crash data; and (c) modifications needed to equip the state's school buses with seatbelts; and (2) conducting a cost-benefit analysis. The study should be completed later this year.

PF:df

**LEGISLATIVE RESEARCH UNIT**

PATRICK D. O'GRADY, EXECUTIVE DIRECTOR

March 20, 2008

**SEAT BELTS ON SCHOOL BUSES**

asked on your behalf for information on seat belts in school buses. We describe below the laws of six states that require seat belts in school buses. We also enclose some general information on the topic.

**Other States**

At least six states' laws require seat belts in school buses.<sup>1</sup> We enclose copies of them. Only one such state (New Jersey) also requires school bus riders to use their seat belts. Table 1 gives details.

**Table 1: States Requiring Seat Belts in School Buses**

<i>State</i>	<i>Seat belts must be installed</i>	<i>Passengers must use seat belts</i>	<i>effective</i>
California	<input type="checkbox"/>	-	1999
Florida	<input type="checkbox"/>	-	2001
Louisiana	<input type="checkbox"/> <sup>1</sup>	-	2004
New Jersey	<input type="checkbox"/> <sup>2</sup>	<input type="checkbox"/>	1992
New York	<input type="checkbox"/> <sup>3</sup>	- <sup>4</sup>	1987
Texas	<input type="checkbox"/> <sup>5</sup>	-	2007

**LRU**

## Notes

1. Districts' compliance is subject to appropriation of funds.
2. School buses must also have high seatbacks to protect the riders behind seats.
3. Buses must also have increased back padding on seatbacks.
4. Local school boards, after a public hearing, can require riders to use seat belts.
5. Requires a three-point seat belt on school buses bought after August 2010 or school-chartered buses contracted for use after August 2011.

Sources: Cal. Veh. Code, subsec. 27316(a); Fla. Stat. Ann., subsec. 316.6145(1)(a); La. Rev. Stat., sec. 17:164.2; N.J. Stat. Ann., secs. 39:3B-10 and 39:3B-11; N.Y. Veh. & Traf. Law, subsec. 383(5); and N.Y. Educ. Law, subsec. 3635-a(1); Texas Educ. Code, secs. 34.013 and 547.701(e).

A 1992 New Jersey law<sup>2</sup> requires school buses to be equipped with a lap belt, or another federally approved restraint system, for each seating position.<sup>3</sup> Every passenger on a school bus, regardless of age or grade, is to wear a seat belt while it is moving.<sup>4</sup>

In New York, every school bus made for use in the state after July 1, 1987 must have a seat belt and increased back padding for each seat.<sup>5</sup> Existing buses must be retrofitted with seat belts and increased padding approved by the Commissioner of Transportation.<sup>6</sup> A local school board after a public hearing can require children to use seat belts on school buses.<sup>7</sup> The law sets no age or grade requirement, or standards for a local school board's decision.

The Texas law requires a three-point seat belt on school buses bought after August 31, 2010 or school-chartered buses contracted for use after August 31, 2011.<sup>8</sup> School districts are to report school bus accident data annually to the Texas Education Agency.<sup>9</sup>

A 2007 *Chicago Sun-Times* article stated that Chicago public school buses had been equipped with seat belts since 1975.<sup>10</sup> Evanston/Skokie School District 65 contracts for school buses equipped with seat belts, and encourages students to use them.<sup>11</sup> We asked the Chicago Public Schools' General Counsel and the Illinois Association for Pupil Transportation for more information on districts currently using seat belts on buses, but they have not responded. We will forward to you any reply we receive.

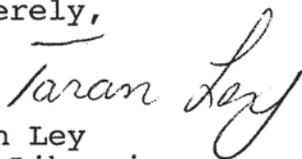
The U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) held a public meeting last July 11 in Washington, with a stated purpose "to bring together a roundtable of State and local government policy-makers, school bus and seat manufacturers, pupil

transportation associations, and public interest groups to discuss the issue of seat belts on large school buses."<sup>12</sup> NHTSA issued a notice of proposed rulemaking for comments on or before January 22, 2008. Although the comment period has ended, it typically takes at least 1 year for final rules to be issued (if they are issued).<sup>13</sup>

Three reports from NHTSA are also enclosed for their background information and statistics on school transportation-related crashes.

We hope this information is helpful. Please let us know if we can be of further assistance.

Sincerely,



Taran Ley  
Head Librarian

TL:ag

#### Enclosures

1. Cal. Veh. Code, sec. 27316.
2. Fla. Stat. Ann., sec. 316.6145.
3. La. Rev. Stat., sec. 17:164.2.
4. N.J. Stat. Ann., secs. 39:3B-10 and 39:3B-11.
5. N.Y. Veh. & Traf. Law, sec. 383 and N.Y. Educ. Law, sec. 3635-a.
6. Tex. Educ. Code Ann., secs. 34.013 and 34.015, and Texas Transp. Code Ann., sec. 547.701.
7. U.S. Department of Transportation, National Highway Traffic Safety Administration, "Seat Belts on School Buses—May 2006" (downloaded from NHTSA Internet site).
8. Hinch et al., "Report to Congress—School Bus Safety: Crashworthiness Research" (April 2002, downloaded from NHTSA Internet site).
9. NHTSA, "School Transportation-Related Crashes" from *Traffic Safety Facts: 2006 Data* (downloaded from NHTSA Internet site).
10. Savage, "School Bus Safety" (excerpt from *Traffic Safety and Public Health: State Legislative Action 2007*), NCSL Transportation Series, no. 32, Dec. 2007, p. 22.

#### Notes

1. Savage, "School Bus Safety" (excerpt from *Traffic Safety and Public Health: State Legislative Action 2007*), NCSL Transportation Series, no. 32, Dec. 2007, p. 23.
2. 1992 N.J. Laws, ch. 92.

3. N.J. Stat. Ann., sec. 39:3B-10.
4. N.J. Stat. Ann., sec. 39:3B-11.
5. N.Y. Veh. & Traf. Law, subsec. 383(5)(a).
6. N.Y. Veh. & Traf. Law, subsec. 383(5)(b).
7. N.Y. Educ. Law, subsec. 3635-a(1).
8. Texas Transp. Code, subsec. 547.701(e).
9. Texas Educ. Code, subsec. 34.015(b).
10. Nickerson, "No Rule, but Chicago Does It," *Chicago Sun-Times*, July 24, 2007, p. 21.
11. Telephone conversation with Roger Allen, Transportation Manager, Evanston/Skokie School District 65, March 18, 2008.
12. 72 Fed. Register pp. 30739 to 30742 at 30739 (Jun. 4, 2007).
13. Telephone conversation with Charles Hott, Office of Vehicle Standards, U.S. Department of Transportation, National Highway Traffic Safety Administration, March 17, 2008 and "Notice of Proposed Rulemaking (49 CFR 571)" (downloaded from Federal Register Internet site).

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

- PRESENTATION:** Progress Report for Schools in an Intensive Assistance Cycle Due to Continuing or Serious Deviations
- PRESENTER:** Teri Wing  
Accreditation Compliance Specialist  
Office of Public Instruction
- OVERVIEW:** This presentation provides to the Board of Public Education (BPE) a progress report regarding schools that are currently in the Intensive Assistance Process due to continuing or serious deviations.
- REQUESTED DECISION(S):** Discussion
- OUTLYING ISSUE(S):** The state Superintendent of Public Instruction provides annual recommendations to the BPE for accreditation status determinations for all Montana accredited schools. Over the past two years the State Superintendent and the Office of Public Instruction accreditation staff have worked with the BPE to develop and implement a process that will address these serious and continuing deviations fairly, consistently and with intention toward continuous education improvement. See the attached, Intensive Assistance Process graphic.
- RECOMMENDATION(S):** None



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Montana  
**Office of Public Instruction**  
Denise Juneau, State Superintendent

Office of Public Instruction  
P.O. Box 202501  
Helena, MT, 59620-2501  
(406) 444-3095  
(888) 231-9393  
(406) 444-0169 (TTY)  
opi.mt.gov

## **Update of Schools in the Intensive Assistance Process and on the Watch List May 2012**

In January and March 2012 I, Teri Wing, visited schools throughout the state, focusing on schools that are in the Intensive Assistance process or that are on a "watch list" due to serious deviations, such as unlicensed teachers. The following is a summary of the school visits:

### **Belgrade School District- Watch list**

Belgrade Schools are on a "watch list" due to their third year with deviations in Library Media FTE, third year with class overloads, and first year with a deviation for administration FTE. The district suffered the loss of one of their principals who died earlier in the year. They have not replaced him, but plan to reorganize their administrative team and hire another administrator next year. The district is growing very rapidly and looking for ways to deal with the increased enrollment and eliminate the class overloads. Finally, the district will be submitting an alternative to standards to correct their Library Media deviations.

### **Billings School District- Intensive Assistance**

Linda Peterson and I visited with Interim Superintendent Jack Copps, his Board Chair, and central office administrative team. The district's continuing deviations were the focus of our discussion. The district has continuing deviations for 10.55.709 Library Media FTE, 10.55.710 Counselor FTE, 10.55.707 Teacher Licensure, and 10.55.712 and 713, Class size.

The outcome of this meeting was a recommendation to Superintendent Juneau by the Accreditation staff that the Billings District move to Step 2 of the Intensive Assistance process and appear before the Board of Public Education.

### **Butte Central HS- Watch List**

For the 2011-12 school year Butte Central HS has had two non-licensed teachers. When I visited with the principal he assured me that these teachers will not be teaching at the school next school year.

### **Fairview School District- Watch list**

Fairview Schools are not in the Intensive Assistance process, but have been on the "watch list" due to a previous non-licensed teacher. Fairview has remedied that problem and has REGULAR accreditation for the 2011-12 school year.

### **Helena Public Schools- Intensive Assistance**

The Helena schools are again in a transition with an Interim Superintendent for the 2011-12 school year and a new superintendent starting in July. Linda Peterson and I visited

with Interim Superintendent Keith Meyer in early February. We discussed the various deviations cited at a number of schools. These deviations included teacher misassignments, inadequate library media specialist FTE and class overloads. During the current school year the class overload deviations have been addressed by assigning paraprofessionals to the classrooms with overloads, thereby bringing those classrooms into compliance with Accreditation Standards.

#### **Lewistown School District- Intensive Assistance**

Lewistown Elementary schools have been deficient in Library Media FTE for a number of years. I visited with the superintendent and was assured that additional Library Media personnel will be hired this spring to remediate this deviation.

#### **Lustre Christian Academy (Lustre, MT)- Watch list**

Lustre Christian Academy has been on the "watch list" due to misassigned teachers for the past three years. I was able to visit with the principal and Board Chair to emphasize the need for properly endorsed teachers to be assigned in all classes.

#### **Manhattan Christian High School (Manhattan, MT)- Watch list**

Manhattan Christian High School is on the "watch list" due to a teacher misassignment and the second year of a non-licensed teacher. Their corrective plan will include enrolling their misassigned teacher in an approved internship. The non-licensed teacher has been licensed in another state and has contacted the OPI Licensure. However, he has not followed through on completing the application. The high school administrator has informed him that if he does not have the paperwork completed and have at least a Class 5 license by the end of the school year, he will be replaced for the 2012-13 school year.

#### **Northern Cheyenne Tribal Schools (Busby, MT)- Intensive Assistance**

Northern Cheyenne Tribal Elementary achieved REGULAR accreditation for 2012 and the High School received REGULAR with Minor Deviations for misassigned teachers. Dr. Bundy is in his second year as superintendent and has made many significant changes as part of the schools' restructuring program. Northern Cheyenne Tribal Schools are one of two Bureau of Indian Education (BIE) schools in the state. Two Eagle River School is the second. As such the superintendent is responsible to the tribe, the BIE, and as an accredited school, to the OPI.

#### **Pine Hills Correctional Facility (Miles City, MT)- Site visit**

I stopped in Miles City to visit with Steve Ray, the superintendent of the facility. The school is not in the Intensive Assistance process, but I wanted to show support for Mr. Ray as he seeks to improve the education program. The school has one deviation for 2012 for no counseling services. However, I was able to meet the new counselor that they feel is a good match for the school and who will start her new position in May. The school will also have a new principal in position for the start of the next school year. He is currently a principal in Colstrip.

### **Scobey School District- Intensive Assistance**

Scobey schools are currently in the Intensive Assistance process. All schools received REGULAR accreditation for the 2011-12 school year. However, our office received information that the status had changed after the Annual Data Collection and that two teachers were misassigned. In visiting with the superintendent I found that, due to resignations during the year, two individuals were assigned to teaching positions for which they do not have endorsements. Both of these problems will be corrected for the 2012-13 school year.

### **Whitefish Middle School and LA Muldown Elementary (Whitefish, MT) Intensive Assistance**

Muldown Elementary is in its 9<sup>th</sup> year of deviations for principal FTE. Whitefish Middle School is in its 6<sup>th</sup> year of deviations for Library Media FTE. The new superintendent is very committed to eliminating these deviations and has submitted a corrective plan that will increase WMS Library Media and Muldown principal FTE to levels required for REGULAR accreditation.

### **Intensive Assistance and Watch List Schools not yet visited:**

#### **Billings Central HS- Intensive Assistance**

Billings Central HS has received REGULAR accreditation for the 2011-12 school year.

#### **Butte Public Schools- Margaret Leary, Emerson and Whittier- Intensive Assistance**

All three of these Butte schools received REGULAR accreditation for the 2011-12 school year.

#### **Columbia Falls Schools- Intensive Assistance**

Columbia Falls HS has written an alternative to standard for 10.55.709 Library Media. The application was approved at the November 2011 BPE meeting. Through this alternative Columbia Falls High School will meet accreditation standards.

Columbia Falls at one time housed their 6<sup>th</sup> grade in a separate building. This is no longer the case, and has not been for a number of years. Sixth grade is part of the middle school of grades 6-8. The OPI, however, still has the 6<sup>th</sup> grade listed as a separate school with a separate school code, resulting in deviations in library and counseling services. I have contacted Central to correct this error.

#### **Independent Elementary School- Intensive Assistance**

Independent Elementary in Billings has received REGULAR accreditation for the 2011-12 school year.

#### **Loyola Sacred Heart HS- Watch List**

This school is on the watch list due to a non-licensed teacher for the 2011-12 school year.

#### **Montana School for the Deaf and Blind- Intensive Assistance**

Linda Peterson and I have an appointment to visit the school on April 24, 2012.

**West Valley School- Intensive Assistance**

West Valley will hire a new superintendent to begin responsibilities on July 1, 2012. I will plan to visit with that person to assist the district to remedy the Principal FTE deficiency that the school has had for some time.

**EXECUTIVE SUMMARY**  
**DATE: MAY 2012**

**PRESENTATION:** Chapter 55 Joint Task Force Update

**PRESENTER:** Patty Myers, Chairperson  
Board of Public Education  
  
Dennis Parman, Deputy Superintendent  
Office of Public Instruction

**OVERVIEW:** Deputy Superintendent Parman and Board of Public Education (BPE) Chairperson Myers provide to the BPE an update on the work of the Chapter 55 Task Force. This presentation includes the Chapter 55 Task Force process, significant rule changes, whether new or amended, and cost analysis assumptions for implementing the revisions to ARM Chapter 55.

The Chapter 55 Task Force concluded its work on April 13 in Helena by completing a final decision package of outstanding work on specific standards. From this link you will have access to the final recommendations from the Chapter 55 Task Force.

<http://www.opi.mt.gov/Programs/Accred/Chapt55.php>

The Task Force provided to the State Superintendent the final recommendations pertaining to Chapter 55 Standards of Accreditation. Superintendent Juneau has considered the Task Force recommendations recognizing the value of the long-term commitment of the 29 members who devoted their time to making difficult decisions for the good of Montana students and communities. The State Superintendent will provide the final recommendations to the BPE for consideration. The BPE will review the rule recommendations pertaining to Chapter 55 through the public hearing process with anticipated final action in September of 2012.

This schedule continues to afford opportunity for anyone to provide input to the process.

**REQUESTED DECISION(S):** None

**OUTLYING ISSUE(S):** None

**RECOMMENDATION(S):** Information/Discussion



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Montana  
**Office of Public Instruction**  
Denise Juneau, State Superintendent

**Office of Public Instruction**  
P.O. Box 202501  
Helena, MT, 59620-2501  
(406) 444-3095  
(888) 231-9393  
(406) 444-0169 (TTY)  
opi.mt.gov

## **Chapter 55 Review Joint Task Force Update Report**

### **Joint Task Force Work Completed**

1. Major Topics Completed at April 13 Meeting
  - 602 Definitions
  - 605 Categories of Accreditation
  - 606 Accreditation Process
  - 704 & 705 FTE & Enrollment
  - 714 Prof Dev (2)(a) & (b)
  - 716 Substitute Teachers
  - 719 Title
  
2. Major Topics Completed At February 28 and 29 Meeting
  - 604 Variance to Standards (rewrite)
  - 719 NEW RULE (Bullying)
  - 701 Board of Trustees (1) (f) (Policy references to NEW RULE 719)
  - 702 and & 703 Internships for Superintendents, Principals, Teachers
  - 714 Professional Development (1) (a) – (k) (No Change in the end)
  - 902, 903, 904, and 905 ELA and Literacy
  
3. Major Topics Addressed By the Task Force Not Already Mentioned
  - 701 (5) (a and b) Evaluation Framework
  - 706 – 717 No Changes to Input Standards (class size, graduation requirements, assignments for librarians and counselors, .....)
  - Lots of language clarification

A final set of the recommendations have been sent to Superintendent Juneau. She will review them and make a recommendation to the Board of Public Education at their May meeting.

**Cost Analysis Assumptions for Implementation of the  
Revisions to ARM Chapter 55 Standards of Accreditation  
April 2012**

The following assumptions are based on the expectation that the current level of state funding will remain stable.

1. The Board of Public Education (BPE) rule requires that all schools meet the requirements of ARM Chapter 55 Standards of Accreditation in order to remain eligible for K-12 BASE aid and other state funding.
2. The BPE has established a recurring cycle of revision for ARM Chapter 55 Standards of Accreditation. In September 2012 the BPE will adopt the revised Standards of Accreditation to be effective July 1, 2013. These adopted standards will replace the former Chapter 55 standards.
3. The revised standards contain an additional reporting requirement for numbers of interns and their progress to meet licensure requirements. There is no fiscal impact of this revision.
4. There is a new requirement for the Office of Public Instruction (OPI) to convene a panel of district educators to review and make recommendations concerning variance to standards requests sent to the OPI. While there will be implementation costs for the OPI, there will not be additional costs to school districts.
5. The revised standards contain a requirement to add student performance standards as part of the determination of school accreditation status. Since the OPI will compute the student performance data, the only costs to be incurred by some school districts would be for professional development and programming to increase student performance.
6. There is a new requirement to establish teaching and mentoring programs and induction programs to assist licensed staff in meeting teaching standards. There will be additional costs to school districts to implement this requirement.
7. There is a new requirement for written policies and procedures for the regular and periodic evaluation of all regularly employed school district employees. In addition, there are expanded evaluation requirements that include expected outcomes of performance for teachers and administrators. Some districts may incur additional costs in the development of these policies and procedures.
8. Student protection policies and procedures concerning bullying are required in the revised standards. Some districts may incur additional costs in the development of these policies and procedures.



Montana  
**Office of Public Instruction**  
Denise Juneau, State Superintendent

[opi.mt.gov](http://opi.mt.gov)

**Office of Public Instruction**  
P.O. Box 202501  
Helena, MT, 59620-2501  
(406) 444-3095  
(888) 231-9393  
(406) 444-0169 (TTY)  
[opi.mt.gov](http://opi.mt.gov)

**Chapter 55 Standards of Accreditation  
Recommendations for Consideration  
Timeline  
April 25, 2012**

- April 13 – Task Force completes work. Task Force takes final action on recommendations for consideration by Superintendent
- April 16 – OPI Leadership Team prepares fiscal impact statement
- April 16-20 – Leadership Team provides Task Force recommendations to Superintendent
- April 16- 27 – State Superintendent prepares recommendation of Chapter 55 Standards of Accreditation for the BPE
- May 10-11 – State Superintendent recommends to the Board of Public Education (BPE) the revisions and cost analysis assumptions of Chapter 55 Standards of Accreditation. State Superintendent also recommends the BPE approve the preparation of the Notice of Public Hearing pertaining to Chapter 55.
- May 11 – BPE submits cost analysis assumptions and draft recommendation of amendments of Chapter 55 to the Legislative Fiscal Analysts Office
- June 22 – OPI submits July BPE meeting materials to BPE
- July 12-13 – Superintendent recommends approval by the BPE of Notice of Public Hearing
- July 16 – OPI submits Notice of Public Hearing with Secretary of State Montana Administrative Register (MAR) Filing Due Date
- July 26 – SOS MAR Publication
- August 20 – Public Hearing
- August 28 – OPI submits September BPE meeting materials to BPE
- September 14 – Superintendent recommends approval of Notice of Adoption of Chapter 55 Standards of Accreditation. Final Action by BPE
- October 1 – OPI submits Notice of Adoption
- October 11 – SOS MAR Publication of Notice of Adoption
- Effective Date – July 1, 2013

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

- PRESENTATION:** State Superintendent's Recommendation of Amendments of Administrative Rules of Montana (ARM) Chapter 55
- PRESENTER:** State Superintendent Denise Juneau  
Office of Public Instruction
- OVERVIEW:** State Superintendent Denise Juneau provides to the Board of Public Education (BPE) her final recommendation of amendments pertaining to ARM Chapter 55 Standards of Accreditation. This presentation will include a review of the recommended amendments for consideration by the BPE.
- REQUESTED DECISION(S):** None
- OUTLYING ISSUE(S):** On April 13, 2012, the Joint Chapter 55 Task Force provided to the State Superintendent its final recommendation of amendments pertaining to Chapter 55 Standards of Accreditation. Superintendent Juneau has considered the Task Force recommendations recognizing the value of the long-term commitment of the 29 members who devoted their time to making difficult decisions for the good of Montana students and communities. The BPE will review the recommended amendments pertaining to Chapter 55 through the public hearing process with anticipated final action in September 2012.
- RECOMMENDATION(S):** Discussion

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

- PRESENTATION:** Report of Educator License Surrender
- PRESENTER:** Ann Gilkey  
Chief Legal Counsel  
Office of Public Instruction
- OVERVIEW:** Licensed educator surrendered his license, which must be reported to the Board of Public Education pursuant to ARM 10.57.605.
- REQUESTED DECISION(S):** Information/discussion only
- OUTLYING ISSUE(S):** Typically closed session of the Board
- RECOMMENDATION(S):**

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

- PRESENTATION:** Cost Analysis Assumptions for Implementation of Proposed Changes to Administrative Rules of Montana (ARM) 10.56.101 Student Assessment
- PRESENTER:** Judy Snow  
Assessment Director  
Office of Public Instruction
- OVERVIEW:** This report presents to the Montana Board of Public Education the cost analysis assumptions for the implementation of proposed changes to ARM 10.56.101 Student Assessment.
- REQUESTED DECISION(S):** None
- OUTLYING ISSUE(S):** None
- RECOMMENDATION(S):** None

Cost Analysis Assumptions for Implementation of  
Proposed Changes to ARM 10.56.101, Student Assessment  
Assumptions

April 24, 2012

1. The proposed changes to ARM 10.56.101 require every public high school in Montana to provide the ACT Plus Writing college-readiness tests to all eleventh grade students in their high schools on a school day without charge to the students or schools.
2. The cost of the testing contract is funded through the federal GEAR Up grant awarded to the Office of the Commissioner of Higher Education (OCHE). The OCHE has contracted with the Office of Public Instruction (OPI) to oversee the statewide administration of the ACT Plus Writing. The OPI receives funding from the GEAR Up grant to administer the test and to provide grants to public high schools to cover local costs related to the test administration.
3. The ACT Plus Writing test costs \$49.50/test; OPI estimates that 11,000 juniors will be tested annually. In total, the tests are projected to cost \$545,000. The contract with ACT covers the cost of the tests and includes test administration training, professional development, and reporting services.
4. The GEAR Up grant also provides \$175,000 for local high schools to cover staff/substitute costs and other expenses related to providing the test. The average grant to a high school is \$1,000.
5. With funding from the GEAR Up grant, the Office of Public Instruction will be able to fully cover the costs associated with the ACT Plus Writing from 2012 through 2018. The costs incurred by school districts will be paid by subgrants to high schools from the GEAR Up grant.
6. Montana public schools are currently required to administer the criterion-referenced test (CRT) in a) grades 3-8 and 10 for English Language Arts and Mathematics; and b) grades 4, 8 and 10 for Science. The testing vendor is Measured Progress and the cost of the testing contract is paid by the Office of Public Instruction. Schools and districts currently fund any local costs associated with test administration and interpretation of test results within their existing budgets.
7. Montana school districts are currently required to administer the English Language Proficiency assessment to all students identified as Limited English Proficient. The testing vendor is WIDA, and the cost of the testing contract is paid by the Office of Public Instruction. Schools and districts currently fund any local costs associated with test administration and interpretation of test results within their existing budgets.
8. The proposed rule changes do not affect the cost of the administration of the CRT or the English Language Proficiency Assessment. The cost of moving to the Common Core Standards and the SMARTER Balanced Assessment Consortium's assessments are analyzed as part of the impact of the ARM changes adopted by the Board of Public Education in November 2011.
9. The proposed changes to ARM 10.56.101 do not create a significant fiscal impact on accredited schools.

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

- PRESENTATION:** Intensive Assistance Process, Step 2 Recommendation
- PRESENTER:** Teri Wing  
Accreditation Compliance Specialist  
Office of Public Instruction
- OVERVIEW:** This presentation provides to the Board of Public Education (BPE) a report on the accreditation status of Billings Public School District, which has been in the Intensive Assistance Process since September 2011.
- REQUESTED DECISION(S):** Approve State Superintendent's recommendations.
- OUTLYING ISSUE(S):** Over the past three years the State Superintendent and the Office of Public Instruction accreditation staff have worked with the BPE to develop and implement a process that will address serious and continuing accreditation deviations fairly, consistently and with intention toward continuous education improvement. This process is the Intensive Assistance Process. The plan provides a path toward correction of deviations and achievement of REGULAR accreditation status for schools. If initial Step 1 Corrective Plans are not submitted or followed the State Superintendent recommends that the BPE moves schools to Step 2 of the process. This is the recommendation that the State Superintendent makes regarding the Billings Public Schools.
- RECOMMENDATION(S):** Action



## Billings Public School District Accreditation

### 2005-06:

- The Billing District submitted an application for an alternative to 10.55.710, Guidance Standard. The application was based upon the premise that the district-wide ratio of elementary counselors to students was 1:400. Some schools exceeded the ratio while some were understaffed. The application was denied.

### 2006-07:

- 8 elementary schools cited for Counselor FTE deviations.
- 6 schools cited for class overloads.

### 2007-08:

- 8 schools cited for Counselor FTE deviations.
- 5 schools cited for Library FTE
- 4 schools cited for class overloads.

### 2008-09:

- 5 schools cited for Counselor FTE
- 10 schools cited for Library FTE
- 11 schools cited for class overloads
- 2 non-licensed teachers

### 2009-10:

- Billing School District submitted an application for an alternative to standard 10.55.709 Library Media and 10.55.710 Guidance, which were denied by the Board of Public Education.
- 8 schools cited for Counselor FTE
- 11 schools for Library Media FTE
- 18 schools cited for class overloads.
- 1 non-licensed teacher

### 2010-11:

- 6 schools cited for Counselor FTE
- 10 schools cited for Library Media FTE
- 16 schools cited for class overloads
- 1 non-licensed teacher
- September 2010 Billings schools were placed in the Intensive Assistance Process

### 2011-12:

- 11 schools cited for Counselor FTE
- 8 schools cited for Library Media FTE
- 18 schools cited for class overloads
- 3 non-licensed teachers

On March 26, 2012, Linda Peterson and Teri Wing visited with Interim Superintendent Jack Cops, his Board Chair and his administrative team. We were informed that many of the current deviations either had been addressed or would be addressed. We are awaiting a report on those actions from Assistant Superintendent Gail Surwill.

Although the Billings Public Schools District has submitted a number of corrective plans to the Board of Public Education over the past several years, deviations continue, with no apparent follow through on corrective plans. Therefore, it is the recommendation of the Accreditation staff that the Billings Public Schools District be moved to Step 2 of the Intensive Assistance Process and an appearance before the May Board of Public Education.

## RESPONSE OPTIONS FOR CONTINUING OR SERIOUS DEVIATIONS

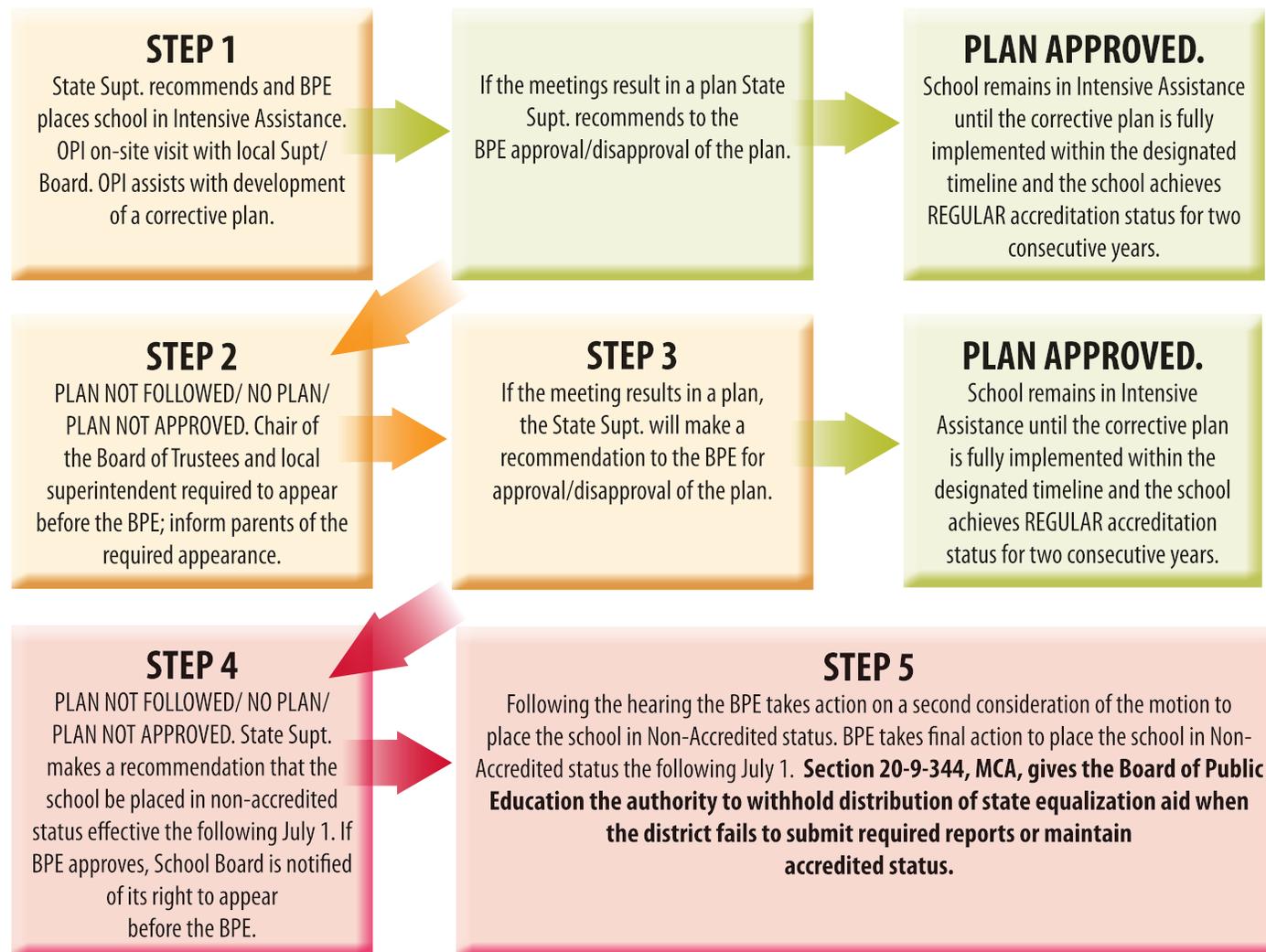
The Office of Public Instruction (OPI) Accreditation Division works with schools and districts to resolve deviation issues without further actions by the Board of Public Education (BPE). Schools that have serious and/or continuing deviations are in Deficiency status and are expected to develop and implement a corrective plan to remedy the deviations which resulted in the Deficiency status. Schools failing to implement the corrective plan are placed in Intensive Assistance. This process represents the final effort to resolve the school's significant accreditation issues. The school's lack of response to Intensive Assistance can result in a recommendation from the Superintendent of Public Instruction to the BPE to move the school to Non-Accreditation status. Section 20-9-344, MCA, gives the BPE the authority to withhold distribution of state equalization aid when the district fails to submit required reports or maintain accredited status. Administrative Rules of Montana 10.67.102 and 10.67.103 establish the procedures and hearing schedules as adopted by the BPE.



Montana  
Office of Public Instruction  
Denise Juneau, State Superintendent

opi.mt.gov

# Intensive Assistance Process



# OFFICE OF PUBLIC INSTRUCTION

## STATE OF MONTANA

**Denise Juneau**  
**Superintendent**



**www.opi.mt.gov**  
**(406) 444-5643**

April 24, 2012

Patty Myers, Chair  
Montana Board of Public Education  
P.O. Box 200601  
Helena, MT 59620-0601

Dear Chairperson Myers:

At the September 2010 meeting of the Board of Public Education (BPE), schools in the Billings Public Schools District were placed at Step 1 of the Intensive Assistance Process due to continuing and serious deviations from the BPE administrative rule requirements. These deviations included numerous instances of class overloads, insufficient counselor FTE, insufficient Library Media specialist FTE, teacher misassignments and non-licensed teachers.

The Billings District Corrective Action Plan for 2011 has not resulted in remediating the deviations. For the 2011-12 school year, 11 of the district's schools are in DEFICIENCY accreditation status, and six schools are in ADVICE accreditation status. Deviations include citations for class overloads, insufficient Library Media specialist FTE, insufficient counselor FTE, teacher misassignments and non-licensed teachers.

The Office of Public Instruction is aware that the district has had a number of transitions during the last several years. These transitions have created a challenge in bringing Billings schools into compliance with the Accreditation Standards. At this time, the Billings Public Schools District must develop concrete Corrective Plans to bring all schools into REGULAR accreditation status for the 2012-13 school year. Step 2 of the Intensive Assistance Process is designed to accomplish that goal. Therefore, it is my recommendation that the Board of Public Education take action requesting the Chair of the Board of Trustees and Superintendent of the Billings Public Schools appear before the BPE on May 10, 2012, in Great Falls at the Montana School for the Deaf and Blind. Further, it is my recommendation that at the May, 2012, meeting the BPE move the Billings Public Schools to Step 2 of the Intensive Assistance Process.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise Juneau".

Denise Juneau

Superintendent of Public Instruction



# Board of Public Education

PO Box 200601  
Helena, Montana 59620-0601  
(406) 444-6576  
www.bpe.mt.gov

April 23, 2012

## BOARD MEMBERS

### APPOINTED MEMBERS:

Patty Myers - Chair  
Great Falls

Sharon Carroll - Vice Chair  
Ekalaka

Erin Williams  
Missoula

Lila Taylor  
Busby

Bernie Olson  
Lakeside

John Edwards  
Billings

Doug Cordier  
Columbia Falls

Holly Capp, Student Rep.  
Great Falls

### EX OFFICIO MEMBERS:

Clayton Christian  
Commissioner of  
Higher Education

Denise Juneau,  
Superintendent of  
Public Instruction

Brian Schweitzer, Governor

### EXECUTIVE SECRETARY:

Pete Donovan

Ms. Teresa Stroebe, School Board Chair

Billings Public Schools

415 N. 30<sup>th</sup> Street

Billings, MT 59101

Dear Chair Stroebe:

Denise Juneau, Superintendent of Public Instruction, has provided me with a letter recommending that the Board of Public Education move the Billings Public Schools into Step 2 of the Intensive Assistance Process for accreditation. Therefore, the Board of Public Education requests that you and Superintendent Jack Copps appear before the BPE on May 10, 2012, in Great Falls at the Montana School for the Deaf and Blind to discuss this important matter.

The Board of Public Education takes very seriously its constitutional and statutory charge of assuring that our public schools meet and/or exceed the accreditation standards to ensure a quality education for all students.

Please feel free to contact Peter Donovan, Executive Secretary, if you have any questions about this agenda item for the May BPE meeting.

Sincerely,

A handwritten signature in cursive script that reads "Patty Myers".

Patty Myers, Chair, BPE

Accreditation Issues				
SCHOOL	Classes Over Accreditation			How Resolved in 2011/2012
	2009/2010	2010/2011	2011/2012	
ALKALI	3 - Kindergartens Over	3 - 1st Grades Over	2 - Kindergartens Over	Hired IPP for the Kindergarten class over by 5.
		2 - 2nd Grades Over	2 - 1st Grades Over	
		1 - 3rd Grade Over	3 - 2nd Grades Over	
		2 - 6th Grades Over		
ARROWHEAD	4 - 1st Grades Over	4 - 2nd Grades Over	4 - 1st Grades Over	Classes were over by 1 student and one 4th grade was over by 2 students.
			1 - 2nd Grade Over	
			1 - 3rd Grade Over	
			2 - 4th Grades Over	
			1 - 5th Grade Over	
	Counselor Deviation	Counselor Deviation	Counselor Deviation	
BEARTOOTH	3 - Kindergartens Over	3 - Kindergartens Over	3 - Kindergartens Over	Hired 3 IPP's for each of the 3 Kindergarten classes which were 3 to 4 students over.
		1 - 2nd Grade Over	2 - 2nd Grades Over	
		1 - 4th Grade Over		
		Counselor Deviation	Counselor Deviation	
BENCH	None	2 - 2nd Grades Over	SPED Deviation	
BIG SKY	3 - 2nd Grades Over	3 - 2nd Grades Over	SPED Deviation	All classes were over by 1 student.
		1 - 4th Grade Over	2 - Kindergartens Over	
			1 - 1st Grade Over	
			2 - 2nd Grades Over	
	Counselor Deviation	Counselor Deviation	Counselor Deviation	
BITTERROOT	2 - 1st Grades Over	1 - 2nd Grade Over	1 - Kindergarten Over	Hired IPP for the 6th grade class over by 2. The rest over by 1 to 2 students.
	2 - 2nd Grades Over	Counselor Deviation	2 - 2nd Grades Over	
	Librarian Deviation	Librarian Deviation	1 - 6th Grade Over	
BOULDER	4 - Kindergartens Over	2 - 2nd Grades Over		
	2 - 2nd Grades Over			
	Counselor Deviation	Counselor Deviation	Counselor Deviation	
BROADWATER	2 - 1st Grades Over	4th Grade Over	None	
BURLINGTON	3 - 1st Grades Over	3 - 2nd Grades Over	None	
CENTRAL HEIGHTS		2 - Kindergartens Over	3 - Kindergartens Over	Hired IPP for both 1st Grades over by 4 to 5 students. Kindergarten class loads 2 over by 2 and one over by 3. 2 - 2nd grade classes over by 2 and 3 and one 4th grade over by 2.
		2 - 2nd Grades Over	2 - 1st Grades Over	
	Librarian Deviation	Librarian Deviation	1 - 2nd Grade Over	
			1 - 4th Grade Over	

Accreditation Issues				
SCHOOL	Classes Over Accreditation			How Resolved in 2011/2012
	2009/2010	2010/2011	2011/2012	
<b>EAGLE CLIFFS</b>	None	1 - Kindergarten Over	1 - Kindergarten Over	Hired 2 IPP's for the 2 - 6th grade classes over by 2 each. The rest over by 1 or 2 students.
			3 - 1st Grades Over	
			2 - 6th Grades Over	
		Counselor Deviation	Counselor Deviation	
<b>HIGHLAND</b>	2 - Kindergartens Over	2 - 1st Grades Over	2 - Kindergartens Over	3 IPP's hired. One for each Kindergarten which were over by 5. 1 for the 2nd grade over by 4, the other 2nd grade is over by 3.
	2 - 1st Grades Over	2 - 2nd Grades Over	2 - 2nd Grades Over	
		1 - 6th Grade Over		
	Counselor Deviation	Counselor Deviation	Counselor Deviation	
	Librarian Deviation	Librarian Deviation	Librarian Deviation	
<b>MCKINLEY</b>	1 - Kindergarten Over	1 - Kindergarten Over	2 - Kindergartens Over	Class loads over by 1 to 3 students.
	2 - 2nd Grades Over	1 - 1st Grade Over	2 - 1st Grades Over	
	Librarian Deviation	Librarian Deviation	2 - 2nd Grades Over	
<b>MEADOWLARK</b>		1 - Kindergarten Over	5 - Kindergartens Over	Class loads over by 1 to 4 students. We were cited for 6 Kindergartens over but really only 5 because one class is a job share situation.
			3 - 1st Grade Over	
	Counselor Deviation	Counselor Deviation	Counselor Deviation	
<b>MILES AVE</b>	2 - 2nd Grades Over	2 - Kindergartens Over	2 - 1st Grades Over	Hired IPP for 1st grade over by 4. Other one over by 4 and 2nd grade over by 1.
		1 - 1st Grade Over	1 - 2nd Grade Over	
		2 - 2nd Grades Over	Librarian Deviation	
<b>NEWMAN</b>	1 - Kindergarten Over	1 - 1st Grade Over	2 - 1st Grades Over	1st Grades over by 3 each.
	2 - 1st Grades Over			
	Librarian Deviation	Librarian Deviation	Librarian Deviation	
<b>ORCHARD</b>	3 - Kindergartens Over	3 - Kindergartens Over	3 - Kindergartens Over	All over by 1 or 2 students.
	1 - 1st Grade Over	3 - 1st Grades Over	3 - 1st Grades Over	
	2 - 2nd Grades Over	3 - 2nd Grades Over		
	Counselor Deviation	Counselor Deviation	Counselor Deviation	
<b>POLY DRIVE</b>		2 - 2nd Grades Over	2 - Kindergartens Over	Hired IPP for one kindergarten class over by 5. The other is over by 4.
		1 - 2/3 Combo		
	Counselor Deviation	Counselor Deviation	Counselor Deviation	
	Librarian Deviation	Librarian Deviation		
<b>PONDEROSA</b>	4 - Kindergartens Over	2 - Kindergartens Over	2 - 2nd Grades Over	Classes are over by 1 and 2 students.
	2 - 1st Grades Over	2 - 2nd Grades Over		
	2 - 2nd Grades Over			
<b>ROSE PARK</b>		2 - Kindergartens Over		

Accreditation Issues				
SCHOOL	Classes Over Accreditation			How Resolved in 2011/2012
	2009/2010	2010/2011	2011/2012	
		Counselor Deviation	Counselor Deviation	
	Librarian Deviation	Librarian Deviation		
SANDSTONE	2 - 4th Grades Over	3 - Kindergartens Over	1 - Kindergarten Over	Hired IPP for 2nd grade 4 over. Kindergarten over by 1, 1st grade over by 2 and 3 students and 2 other 2nd grades over by 4 students.
		2 - 1st Grades Over	2 - 1st Grades Over	
		2 - 2nd Grades Over	3 - 2nd Grades Over	
		2 - 6th Grades Over	1 - 2/3 Combo Class Over	
	Counselor Deviation	Counselor Deviation	Counselor Deviation	
WASHINGTON	3 - Kindergartens Over	1 - Kindergarten Over	2 - Kindergartens Over	
	2 - 1st Grades Over	1 - 1st Grade Over	1 - 1st Grade Over	
	1 - 2nd Grade Over	2 - 2/3 Combo Classes Over	Librarian Deviation	
<b>Number of Combination Classes on the October Count Day.</b>	12	19	17	

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

**PRESENTATION:** Assessment Update

**PRESENTER:** Judy Snow, State Assessment Director  
Office of Public Instruction

**OVERVIEW:** Administrative Rules of Montana 10.56.10: Student Assessment.  
Present proposed rules changes.

- July 2012 BPE Meeting: Recommendation
- July 16, 2012: Proposed notice to SOS for notice in MAR
- July 26, 2012: MAR publication out
- August (week of August 27 or later): Hearing date and final public input
- September 13-14: Draft adoption Notice to BPE – vote at meeting
- October 1: Final rule changes to SOS for notice in MAR
- October 10, 2012: MAR publication out
- July 2013: Effective date of rules

**REQUESTED DECISION(S):** Action

**OUTLYING ISSUE(S):**

**RECOMMENDATION(S):** Action Recommendation July BPE Meeting



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Montana
Office of Public Instruction
Denise Juneau, State Superintendent

Office of Public Instruction
P.O. Box 202501
Helena, MT, 59620-2501
(406) 444-3095
(888) 231-9393
(406) 444-0169 (TTY)
opi.mt.gov

TO: Montana Board of Public Education
FROM: Judy Snow, State Assessment Director
RE: Proposed Changes to ARM 10.56.101 to include ACT Plus Writing for every junior and clarification of other statewide assessments.
DATE: May 2012

TIMELINE
Assessment Rule – 10.56.101
April 23, 2012

- Present proposed changes to BPE ..... May meeting
• Proposed notice to BPE ..... July 2012 meeting
• Proposed notice to SOS for notice in MAR ..... 7/16/12
• MAR publication out ..... 7/26/12
• Hearing date ..... After 8/27/12
• Final Public Input deadline ..... On or after 8/27/12
• Adoption Notice to BPE ..... 9/13-14/2012
• Adoption notice to SOS for notice in MAR ..... 10/1/2012
• MAR publication out ..... 10/11/2012
• Effective Date of Rules ..... 7/1/2013

<b>Current language</b>	<b>Draft Proposed Language</b>
<p>The Board recognizes that the primary purpose of assessment is to serve learning. Classroom assessment is the primary means through which assessment impacts instruction and learning for individuals. State-level and large-scale assessment affect learning through assisting policy decisions and assuring program quality for all students. To meet both classroom and state-level needs, state-level assessments will provide information about the proficiency level of student achievement relative to established content standards, as well as the status of Montana's schools in relation to other groups of students, states, and nations. The school and district responsibilities for assessment are identified in ARM 10.55.603.</p>	<p>The Board recognizes that the primary purpose of assessment is to serve learning. A balanced assessment system including formative, interim, and summative assessments will provide an integrated approach to meeting both classroom learning needs and school and state level information needs. With a balanced assessment system, student achievement is a continuous process to inform learning, instruction, and policy decisions.</p>
<p>(3) In order to obtain state-level achievement information, all accredited schools shall annually administer a single system of state-level assessments approved by the Board.</p> <p>(a) State-level assessments shall be administered to all students in grades four, eight and eleven in reading, communication arts, mathematics, science, and social studies. For planning purposes, state-level assessments shall be given during a week in the spring of the year, identified by the Office of Public Instruction a year prior to the assessment date.</p>	<p>(3) In order to obtain state-level achievement information, all accredited schools shall annually administer a single system of state-level assessments approved by the Board. The following state-level assessments will be administered according to standardized procedures. Districts and schools will ensure that all test administrators are trained in and follow those procedures.</p> <p>(a) State-level assessments based on the Montana content standards (phase 1) and the Montana Common Core Standards (phase 2) will be administered in grades 3-8 and a specified high school grade for each phase.</p> <p>i. Phase 1 - School Years 2012-13 and 2013-14, the assessments shall be:</p> <ul style="list-style-type: none"> <li>A. based on Montana content standards;</li> <li>B. administered to Grades 3 -8 and 10 in Math and Reading;</li> <li>C. administered to grades 4, 8, and 10 in Science; and</li> <li>D. administered in the spring of the year contingent upon funding.</li> </ul> <p>ii. Phase 2 - Beginning in School Year 2014-15, the assessments shall be:</p> <ul style="list-style-type: none"> <li>A. based on Montana Common Core Standards;</li> </ul>

	<p>B. administered to Grades 3-8 and 11 in Math and English Language Arts;</p> <p>C. based on Montana Content Standards for Science and administered in grades 4, 8, and 10; and</p> <p>D. administered in the spring of the year contingent upon funding.</p> <p>(b) State-level assessments based on the Montana English Language Proficiency Standards shall be administered to all students identified as Limited English Proficient (LEP) in grades K -12. These assessments shall be administered mid-year and are contingent upon funding.</p> <p>(c) Beginning in the 2012-13 school year, the ACT Plus Writing college readiness tests shall be provided for all eleventh grade public school students in their high schools on a school day without charge to the students or schools. Students may participate without accommodations, with ACT-Approved accommodations, or with State-Allowed Accommodations. All eleventh grade students will take the test unless</p> <p>i. a parent or guardian requests in writing that the student not participate; or</p> <p>ii. a student, 18 or older, requests in writing to not participate.</p> <p>The testing window for the ACT Plus Writing will be in April and May of each year. The requirement for the administration of the ACT Plus Writing is contingent upon funding.</p>
<p>(4) State-level assessment results are a part of each student's permanent records as described in ARM 10.55.2002.</p>	<p>(4) State-level assessment results are a part of each student's permanent record as described in ARM 10.55.909.</p>
<p>(5) The Office of Public Instruction shall provide a report of the results to the Board, the legislature, and the public. Schools are encouraged to compare their results with the state results and share state-level assessment information with parents and local communities.</p> <p>(6) The Superintendent of Public Instruction is authorized to make available the reported student assessment data in</p>	<p>(5) The Office of Public Instruction shall provide a report of the results to the Board and the legislature.</p> <p>(6) The Superintendent of Public Instruction is authorized to make available the reported student assessment data in compliance with confidentiality requirements of federal and state law. State-level assessment results released to the public shall be accompanied by a clear statement of the purposes of the</p>

<p>compliance with confidentiality requirements of federal and state law. State-level assessment results released to the public shall be accompanied by a clear statement of the purposes of the assessments, subject areas assessed, level of measurement of the content standards, and the percent of students who participated in the assessments. The release shall include additional information to provide a fair and useful context for assessment reporting (e.g., dropout rates, mobility rates, poverty levels, district size) that will assist districts to examine their educational programs to assure effectiveness.</p>	<p>assessments, subject areas assessed, level of measurement of the content standards, and the percent of students who participated in the assessments. The Office of Public Instruction will ensure transparency and public availability of public school performance data and reporting as outlined in 20-7-104, MCA.</p>
<p>(7) All students shall participate in the state-level assessments. Students with disabilities or limited English proficiency (LEP) shall participate using the approved assessments, unless it is determined that a student's progress toward the content standards cannot be adequately measured with the approved assessments even when provided accommodations.</p> <p>(a) For students with disabilities, the individualized education program (IEP) teams have the authority to specify accommodations to be provided, as defined in (8), for participation by the student in the state-level assessment.</p> <p>(i) When an IEP team determines that an accommodation for a student's disability would still not allow for adequate measurement of the student's progress toward the content standards, the IEP team may waive using the approved state-level assessments by providing alternate assessments that are appropriate to determine the student's progress toward the content standards. .</p> <p>(b) For students who have been identified by a team of educators as LEP, those teams have the authority to specify accommodations to be provided, as defined in (8), for participation by the student in the state-level assessment.</p> <p>(i) When the team of educators determines that an accommodation for an LEP student who has had fewer than three years of instruction in English would still not allow for adequate measurement of the student's progress toward the content standards, the team of educators may waive using the</p>	<p>(7) All students shall participate in the state-level assessments except as provided in (3) (d) above. Students with disabilities or limited English proficiency (LEP) shall participate using the approved assessments.</p> <p>(a) For students with disabilities, the individualized education program (IEP) teams have the authority to specify accommodations to be provided, as defined in (8), for participation by the student in the state-level assessment.</p> <p>(i) When an IEP team determines that an accommodation for a student's disability would still not allow for adequate measurement of the student's progress toward the content standards, the IEP team may waive using the approved state-level assessments by providing alternate assessments that are appropriate to determine the student's progress toward the content standards.</p> <p>(b) For students who have been identified through the district's process as LEP, accommodations can be provided, as defined in (8), for participation by the student in the state-level assessment.</p> <p>(i) When the team of educators determines that an accommodation for an LEP student who has had fewer than three years of instruction in English would still not allow for adequate measurement of the student's progress toward the content standards, the team of educators may waive using the approved state-level assessments by providing alternate assessments that are appropriate to determine the student's</p>

<p>approved state-level assessments by providing alternate assessments that are appropriate to determine the student's progress toward the content standards.</p>	<p>progress toward the content standards.</p>
<p>(8) Accommodations allow students to demonstrate competence in subject matter so that state-level assessment results accurately reflect the students' achievement levels rather than limited English language development or impaired sensory or manual skills, except where those skills are the factors which the assessment purports to measure.</p> <p>(a) Accommodation for state-level assessment purposes is defined as modifications similar to those used to support and accommodate the student in the instructional setting.</p> <p>(b) Accommodations may include, but are not limited to extended time, small group administration, facilitator reading directions, native language support, student responding orally, or using required assistive technology.</p> <p>(c) The Office of Public Instruction shall provide guidance to schools concerning appropriate accommodations.</p> <p>(History: 20-2-121, MCA; IMP, 20-2-121, 20-7-402, MCA; NEW, 1988 MAR p. 976, Eff. 5/27/88; AMD, 1992 MAR p. 1472, Eff. 7/17/92; AMD, 1993 MAR p. 683, Eff. 4/30/93; AMD, 1995 MAR p. 627, Eff. 4/28/95; AMD, 1997 MAR p. 1186, Eff. 7/8/97; AMD, 2000 MAR p. 957, Eff. 4/14/00.)</p>	<p>(8) Accommodations allow students to demonstrate competence in subject matter so that state-level assessment results accurately reflect the students' achievement levels rather than limited English language development or impaired sensory or manual skills, except where those skills are the factors which the assessment purports to measure.</p> <p>(a) Accommodation for state-level assessment purposes is defined as a modification of the test administration procedures similar to those used to assess the student in the instructional setting.</p> <p>(b) Accommodations may include, but are not limited to extended time, small group administration, facilitator reading directions, native language support, student responding orally, or using required assistive technology.</p> <p>(c) The Office of Public Instruction shall provide guidance to schools concerning appropriate accommodations.</p> <p>(History: 20-2-121, MCA; IMP, 20-2-121, 20-7-402, MCA; NEW, 1988 MAR p. 976, Eff. 5/27/88; AMD, 1992 MAR p. 1472, Eff. 7/17/92; AMD, 1993 MAR p. 683, Eff. 4/30/93; AMD, 1995 MAR p. 627, Eff. 4/28/95; AMD, 1997 MAR p. 1186, Eff. 7/8/97; AMD, 2000 MAR p. 957, Eff. 4/14/00.)</p>

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

**PRESENTATION:** K-12 Schools Payment Schedule for Fiscal Year 2012-2013

**PRESENTER:** Nancy Coopersmith  
Assistant Superintendent  
Office of Public Instruction

**OVERVIEW:** As required by MCA, 20-9-344, the Board of Public Education must approve the distribution of K-12 BASE aid for public education. The schedule is the same as past years, approximately the 25<sup>th</sup> of each month, with adjustment for weekends and holidays. It has been reviewed by the Board of Investments.

**REQUESTED DECISION(S):** Approval of dates

**OUTLYING ISSUE(S):** None

**RECOMMENDATION(S):** Approval



***PROPOSED* PAYMENT SCHEDULE - FISCAL YEAR 2012-13**

The following distribution dates for fiscal year 2012-13 BASE aid payments to K-12 schools are *proposed* for Board approval. Other payment types will be included as noted.

<b>2012</b>	<b>August 24</b>	<b>DSA-QEC- IEA-SAG- SPED-TECHF</b>
	<b>September 21</b>	<b>DSA-QEC-IEA-SAG- SPED</b>
	<b>October 26</b>	<b>DSA-QEC- IEA-SAG- SPED</b>
	<b>November 16</b>	<b>GTB/SBG</b>
	<b>December 21</b>	<b>DSA-QEC- IEA-SAG- SPED</b>
<b>2013</b>	<b>January 25</b>	<b>DSA-QEC-IEA-SAG- SPED</b>
	<b>February 22</b>	<b>DSA-QEC-IEA-SAG- SPED</b>
	<b>March 22</b>	<b>DSA-QEC-IEA-SAG- SPED-TRAN</b>
	<b>April 26</b>	<b>DSA-QEC-IEA-SAG- SPED</b>
	<b>May 24</b>	<b>GTB/FAC REIM/SBG</b>
	<b>June 21</b>	<b>DSA-QEC-IEA-SAG- SPED-TRAN</b>

- DSA - Direct State Aid (Basic and Per-ANB Entitlements)**
- QEC - Quality Educator Component Payment**
- ARC - At Risk Student Component Payment**
- IEA - Indian Education for All**
- SAG - American Indian Student Achievement**
- SPED - State Special Education Entitlements**
- TUIGF - Tuition General Fund**
- TUITR - Tuition Transportation**
- FAC REIM - Facility Reimbursements**
- GTB - Guaranteed Tax Base Aid**
- TECHF - Technology Acquisition Grants (funded by income produced from the annual timber harvest on common school trust lands)**
- SBG - State Block Grant**
- TRAN - Transportation Regular Payments**

Transportation Regular Payments (TRAN) are projected to be paid with the March 22<sup>nd</sup> and June 21<sup>st</sup> payments.

Tuition (TUIGF; TUITR) are projected to be paid monthly as submitted by districts.

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

**PRESENTATION:** Recommend Approval of Notice of Amendment of Administrative Rules of Montana (ARM) 10.57.217, 10.57.601 through 10.57.609, and 10.57.611 relating to educator/specialist discipline

**PRESENTER:** Ann Gilkey  
Legal Counsel  
Office of Public Instruction

**OVERVIEW:** The Office of Public Instruction provides to the Board of Public Education (BPE) the Notice of Amendment of ARM 10.57.217, 10.57.601 through 10.57.609, and 10.57.611 relating to educator/specialist discipline.

**REQUESTED DECISION(S):** Approve Notice of Amendment of ARM 10.57.217, 10.57.601 through 10.57.609, and 10.57.611 relating to educator/specialist discipline.

**OUTLYING ISSUE(S):** None

**RECOMMENDATION(S):** Action

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 10.57.217, 10.57.601 through ) PROPOSED AMENDMENT  
10.57.609, and 10.57.611 relating to )  
educator/specialist discipline )

TO: All Concerned Persons

1. On March 13, 2012 at 1:30 p.m. the Board of Public Education will hold a public hearing in the Superintendent's conference room at 1227 11th Avenue, Helena Montana, to consider the proposed amendment of the above-stated rules.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m. on February 28, 2012, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

10.57.217 APPEAL PROCESS FOR RENEWAL ACTIVITY (1) Decisions of the superintendent on matters of renewal unit activity or provider status may be appealed to the Board of Public Education pursuant to ARM 10.57.603.

AUTH: 20-4-102, MCA  
IMP: 20-4-108, MCA

Reason: Although denial of renewal unit activity may be appealed, there is no process for the appeal. The rule amendment is necessary to provide a specific procedure for the Board of Public Education to address such an appeal.

10.57.601 REQUEST FOR DISCIPLINE AGAINST THE LICENSE OF AN EDUCATOR/SPECIALIST TEACHER, SPECIALIST, OR ADMINISTRATOR: PRELIMINARY ACTION (1) Pursuant to 20-4-110(2), MCA, requests to issue a letter of reprimand or to suspend or revoke ~~a teacher, specialist or administrator~~ an educator/specialist license shall be brought before the Board of Public Education by only:

(a) an official action of the board of trustees of a local district for any ~~teacher, specialist or administrator~~ licensed educator/specialist currently employed by that district or under contract or otherwise employed by that district at any time during the 12 months prior to the receipt by the Board of Public Education of the request to

issue a letter of reprimand or to suspend or revoke; or

(b) the Superintendent of Public Instruction.

(2) The Superintendent of Public Instruction may initiate a request to the Board of Public Education for discipline against an educator/specialist's license within 12 months from the date of receiving direct notification from a local school district board of trustees or from any other credible source.

(3) Requests shall specify whether a letter of reprimand, revocation, or suspension is sought and shall include:

(a) the specific charge(s) against the ~~teacher, specialist or administrator~~ educator/specialist;

(b) through (d) remain the same.

AUTH: 20-4-102, MCA

IMP: 20-4-110, MCA

Reason: The rule amendment is necessary to make terminology consistent throughout the rules and to address the timeline for asking for disciplinary action for educator/specialist misconduct. The superintendent typically becomes aware of teacher misconduct later than a local district becomes aware. This clarification is necessary to ensure the superintendent has reasonable time to investigate and assess the situation, and not be expected to act until the superintendent has actual, credible notice of the misconduct.

10.57.601A DEFINITION OF "IMMORAL CONDUCT" (1) "Immoral conduct" related to the teaching profession, under 20-4-110(1)(f), MCA, includes, but is not limited to:

(a) sexual contact, as defined in 45-2-101, MCA, or sexual intercourse as defined in 45-2-101, MCA, between a ~~teacher, specialist, or administrator~~ an educator/specialist and a person the ~~teacher, specialist, or administrator~~ educator/specialist knows or reasonably should know is a student at a public or private elementary or secondary school;

(b) through (b)(iii) remain the same.

(iv) 45-5-505, MCA, (deviate sexual conduct), if the conduct either was nonconsensual or involved a person the ~~teacher, specialist or administrator~~ educator/specialist knows or reasonably should know is a student at a public or private elementary or secondary school;

(v) through (e)(iii) remain the same.

(iv) inaccurate employment history;

(f) significant misuse of technology or electronic communication with a person a licensed educator/specialist knows or reasonably should know is a student at a public or private elementary or secondary school, including but not limited to misuse of computers, cellular telephones, or other electronic devices; or

(g) intentionally falsifying or deliberately misrepresenting information regarding standardized assessment of students, including but not limited to providing or changing test answers or using inappropriate testing accommodations or modifications.

AUTH: 20-4-102, MCA  
IMP: 20-4-110, MCA

Reason: The amendment is necessary to provide clarification and notice to licensed educators/specialists regarding misconduct which could result in licensing action by the Board of Public Education.

10.57.601B INVESTIGATION REVIEW (1) Upon receipt of a request made pursuant to 20-4-110(2), MCA and ARM 10.57.601, and for the purpose of complying with 20-4-110(5), MCA, the Board of Public Education shall ~~implement an investigation review the allegations~~ to determine whether or not a substantial reason exists to hold a hearing for the issuance of a letter of reprimand or the suspension or revocation of the ~~teacher, specialist or administrator~~ educator/specialist license. This ~~investigation review~~ shall include notifying the affected ~~teacher, specialist or administrator~~ licensed educator/specialist of the charges against him/her the educator by certified mail and allowing him/her the educator/specialist ten days to respond to those charges. After receiving a response, the board may request further information to ensure the preliminary ~~investigation review~~ properly reflects the facts and position of each party.

AUTH: 20-4-102, MCA  
IMP: 20-4-110, MCA

Reason: The amendment is necessary to accurately define and describe the action taken by the Board of Public Education when a request for licensing action is received, and prior to proceeding with a hearing. The board reviews requests for disciplinary action against an educator/specialist license to ensure there is enough evidence to support allegations of misconduct over which they have jurisdiction. They do not conduct an independent investigation.

10.57.602 NOTICE AND OPPORTUNITY FOR HEARING UPON DETERMINATION THAT SUBSTANTIAL REASON EXISTS TO HOLD A HEARING

(1) On the basis of the preliminary ~~investigation review~~ conducted pursuant to ARM 10.57.601B, the Board of Public Education shall determine whether or not a substantial reason exists to hold a hearing to issue a letter of reprimand or to suspend or revoke the ~~teacher, specialist or administrator~~ educator/specialist license.

(a) remains the same.

(b) If the board determines that there is substantial reason to hold such a hearing, the board shall provide notice of the pending action to the ~~teacher, specialist or administrator~~ licensed educator/specialist, by certified mail not less than 30 days prior to the date of the hearing. Such notice shall include:

(i) through (iv) remain the same.

(v) a designation of who will hear the allegation; and

(vi) remains the same.

(c) The notice shall advise the ~~teacher, specialist or administrator~~ licensed educator/specialist that ~~he/she~~ the educator/specialist has the right to contest the

proposed action of the board, and that ~~he/she~~ the educator/specialist may do so by appearing at the hearing either personally or through counsel, or by requesting the board to consider the matter on the basis of the available evidence without an appearance by the ~~teacher, specialist or administrator~~ educator/specialist.

(d) The board shall enclose with the notice an election form on which the ~~teacher, specialist or administrator~~ educator/specialist shall be asked to indicate whether ~~he/she~~ the educator/specialist intends to appear at the hearing and contest the board's proposed action, contest the board's proposed action without appearing at the hearing, or accept the proposed letter of reprimand, suspension, or revocation without contesting it. The notice shall require the ~~teacher, specialist or administrator~~ licensed educator/specialist to return the election form within 20 days of the date on which the notice was mailed, and shall inform the ~~teacher, specialist or administrator~~ educator/specialist that failure to return the form in a timely manner shall result in a letter of reprimand or the suspension or revocation of the license by default.

(e) If the ~~teacher, specialist or administrator~~ educator/specialist does not return the completed election form within 20 days or elects to accept the proposed letter of reprimand, suspension, or revocation without contesting it, the board, at its next meeting, shall suspend or revoke the ~~teacher, specialist or administrator~~ educator/specialist license or shall direct the chair to issue a letter of reprimand.

(f) If the ~~teacher, specialist or administrator~~ licensed educator/specialist elects to contest the proposed letter of reprimand, suspension, or revocation and complies with (1)(d), the board shall conduct a hearing.

(2) If resolution is reached prior to the hearing, the parties may report such resolution to the board and ask for dismissal of the matter. Dismissal of the matter by the board based on mutual agreement of the parties must be granted in writing, but need not contain findings of fact or conclusions of law.

AUTH: 20-4-102, MCA

IMP: 20-4-110, MCA

Reason: The amendment is necessary for consistent terminology through the rules and to clarify procedure during an appeal before the Board of Public Education.

10.57.603 HEARING IN CONTESTED CASES (1) through (1)(c) remain the same.

(2) At the time and place set in the notice to the ~~teacher, specialist or administrator~~ educator/specialist, the chairperson of the Board of Public Education, the designated committee, or an appointed hearing examiner shall conduct the hearing in accordance with ~~Rules 9~~ ARM 1.3.211 through ~~24~~ 1.3.224 of the Attorney General's model rules for hearing contested cases, as found in the Administrative Rules of Montana.

(3) In the case of an appeal made pursuant to ARM 10.57.217 regarding a denial of renewal units or provider status, written notice of the appeal must be made to the board within 30 days of the denial by the Superintendent of Public Instruction. For this type of appeal, the board may follow informal proceedings pursuant to 2-4-604, MCA, and the final board decision may be issued by letter from the chair of the board to the appellant.

AUTH: 20-4-102, MCA  
IMP: 20-4-110, MCA

Reason: The amendment is necessary to ensure consistency of terminology throughout the rules, and to provide procedure for an appeal of issues related to denial of renewal units. The numbering for the Attorney General's model rules was modified in 2008.

10.57.604 POST HEARING PROCEDURE (1) ~~After~~ Either immediately following the hearing, or within 60 days of the conclusion of the hearing regarding an educator/specialist license, the board shall, as provided herein:

(a) make a final decision to:

(i) dismiss the matter;

(ii) issue a letter of reprimand;

(iii) enter into a stipulated agreement; or

(iv) suspend or revoke the license for a specific period of time, up to permanent revocation of the educator/specialist license; and

~~(b) adopt consistent with its decision, issue findings of fact, conclusions of law, and an order issuing a letter of reprimand or suspending or revoking for suspension or revocation of the teacher, specialist or administrator~~ educator/specialist license; or

~~(b) (c)~~ dismiss the request for letter of reprimand, revocation, or suspension.

(2) Consistent with the board's decision, the board chair or designee shall sign the stipulated agreement, the letter of reprimand, or in the case of a suspension or revocation, the final findings of fact, conclusions of law, and order.

(3) The board shall enter record its decision ~~or~~ in its minutes and shall serve the letter of reprimand, or a copy of the findings of fact, conclusions of law, and order by certified mail on the ~~teacher, specialist or administrator~~ educator/specialist and on any other involved party within 30 days of its decision.

(4) Pursuant to 2-4-623, MCA, decisions of the Board of Public Education shall be available for public inspection. Confidential information such as names of any minors, the educator/specialist's address, telephone number, or medical records may be redacted from the posted final decision.

AUTH: 20-2-121, 20-4-102, MCA  
IMP: 20-4-102, 20-4-110, MCA

Reason: The amendments are necessary to ensure consistent terminology, provide clarification to appellants and board members on Board of Public Education hearing procedures, the parameters of authority of the board regarding their decision, and to ensure compliance with statute.

10.57.605 SURRENDER OF A TEACHER, SPECIALIST OR ADMINISTRATOR AN EDUCATOR/SPECIALIST LICENSE (1) A teacher, specialist or administrator licensed educator/specialist may surrender his/her that educator/specialist's license to the Superintendent of Public Instruction. The

Superintendent of Public Instruction, upon review, may accept or reject the license surrender.

(2) remains the same.

(3) The Superintendent of Public Instruction may investigate further following the surrender of ~~a teacher, specialist or administrator's~~ an educator/specialist's license and shall maintain a record of the circumstances surrounding the surrender of any license. The contents of that record shall be available for review by the licensing authority from any other jurisdiction in which the ~~teacher, specialist or administrator~~ educator/specialist seeks licensure.

(4) Surrender of a license is permanent and irrevocable, unless specified otherwise in the document of surrender. Surrender of a license may prejudice the ability of ~~teacher, specialist or administrator~~ an educator/specialist to successfully seek relicensure in Montana in the same or any other class of license or educational endorsement.

(5) remains the same.

AUTH: 20-4-114, MCA

IMP: 20-2-121, MCA

Reason: The amendments are necessary to ensure consistent terminology and clarify the legal significance of a surrender of a license.

10.57.606 REPORTING OF THE SURRENDER, DENIAL, REVOCATION, OR SUSPENSION OF A LICENSE (1) remains the same.

(2) Upon receipt of a license surrendered pursuant to ARM 10.57.605, the Superintendent of Public Instruction shall report to the NASDTEC clearinghouse that the superintendent accepted the surrender of a license held by the ~~teacher, specialist or administrator~~ educator/specialist.

(3) through (4)(b) remain the same.

(5) The Superintendent of Public Instruction shall report to the NASDTEC clearinghouse the suspension or revocation of a license held by ~~a teacher, specialist or administrator~~ an educator/specialist licensed in Montana.

(6) The Superintendent of Public Instruction shall maintain, pursuant to the superintendent's record retention policies, a record of the circumstances surrounding the surrender, denial, revocation, suspension, or reprimand involving ~~a teacher, specialist or administrator's~~ an educator/specialist's license. The contents of that record shall be available for review by the certifying authority from any other jurisdiction in which the ~~teacher, specialist or administrator~~ educator/specialist seeks licensure.

AUTH: 20-4-102, MCA

IMP: 20-4-110, MCA

Reason: The amendments are necessary to ensure consistent terminology.

10.57.607 APPEAL FROM DENIAL OF A TEACHER, SPECIALIST OR ADMINISTRATOR AN EDUCATOR/SPECIALIST LICENSE (1) ~~Appeal~~ Written

notice of appeal from the decision of the Superintendent of Public Instruction to deny issuance or renewal of a teacher, specialist or administrator an educator/specialist license shall be brought before must be submitted to the Board of Public Education by written request from the applicant to the board received within 30 days of the notice to deny. Written notice of appeal must be received by the board no later than 30 days from the date of the letter of denial sent from the office of the Superintendent of Public Instruction.

(2) through (2)(c) remain the same.

AUTH: 20-2-121, 20-4-102, MCA

IMP: 20-4-102, 20-4-110, MCA

Reason: The amendments are necessary to clarify notice requirements, which could be disputed under the existing language, and to ensure consistency in terminology.

10.57.608 CONSIDERATIONS GOVERNING ACCEPTANCE OF APPEAL IN CASES ARISING UNDER 20-4-104, MCA (1) The Board of Public Education shall not consider an appeal from a denial by the Superintendent of Public Instruction based on 20-4-104, MCA, if the appellant has made an appeal to the board from the denial of a teacher, specialist or administrator an educator/specialist license within three years prior to the application which is at issue, and that appeal was denied by the board following a hearing, unless at the time of notice of appeal pursuant to ARM 10.57.607 the appellant can show demonstrates substantial changes in circumstances relating to the appellant's eligibility for a license.

(2) The board shall not consider an appeal by an educator/specialist regarding a suspended, revoked, or surrendered license during the period of suspension, revocation, or surrender.

AUTH: 20-4-102, MCA

IMP: 20-4-110, MCA

Reason: The amendments are necessary to ensure consistent terminology and to clarify the Board of Public Education's authority to hear an appeal related to a suspended, revoked, or surrendered license.

10.57.609 HEARING ON APPEAL (1) remains the same.

(2) On appeal the burden is on the appellant to establish by a preponderance of the evidence that the appellant satisfies the statutory criteria for issuance of a ~~teacher, specialist or administrator~~ an educator/specialist license. In the case of a request for letter of reprimand, suspension, or revocation of an educator/specialist license, the burden is on the requestor to establish by a preponderance of the evidence that the request for board action should be granted.

~~(3) In cases in which the superintendent of public instruction has denied issuance or renewal of a teacher, specialist or administrator license under 20-4-104, MCA, the board of public education may require the appellant to undergo a mental or physical examination by a physician or health professional designated by the board. In cases in which the superintendent of public instruction has denied~~

~~issuance of a new license, the examination shall be at the appellant's expense. In cases in which the superintendent of public instruction has denied issuance of a renewal license, the examination shall be at the superintendent of public instruction's expense. The report of examination shall be admissible evidence in the appeal proceedings before the board, subject to the appellant's right to cross-examine the maker of the report.~~

AUTH: 20-4-102, MCA  
IMP: 20-4-110, MCA

Reason: The amendment is necessary to ensure consistency in terminology, to clarify the parties' burden of proof, and to remove unnecessary/problematic language related to payment responsibility for evaluations, which is case specific and should not be assigned by rule.

10.57.611 SUBSTANTIAL AND MATERIAL NONPERFORMANCE

(1) through (2)(c) remain the same.

(3) Licensed staff members violating 20-4-110(1)(g), MCA shall may be penalized according to the following guidelines:

(a) through (c) remain the same.

(4) In ~~considering~~ determining the severity of the sanction, if any, ~~to impose for a violation,~~ the board will consider the following:

(a) any direct, harmful impact on students caused by the breach of contract;

(b) the length of prior notice, if any, provided to the employing board by the licensed staff member; and

~~(b) the arrangements made and resources provided by the licensed staff member to ensure continuing instruction to pupils;~~

~~(c) the difficulties faced by the employing district in recruiting a suitable replacement;~~

~~(d) (c) the impact of the licensed staff member's breach of contract on the district's compliance with accreditation standards; and~~

~~(e) other hardships suffered by the employing district as a result of the licensed staff member's breach of contract.~~

(5) remains the same.

AUTH: 20-2-114, 20-2-121, MCA  
IMP: 20-2-121, 20-4-110, MCA

Reason: Amendment is necessary to clarify when a sanction is appropriate, making potential harm to students primary to the board's decision to sanction.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov and must be received no later than 5:00 p.m., March 13, 2012.

5. Peter Donovan, Executive Secretary for the Board of Public Education has been designated to preside over and conduct this hearing.

6. The Board of Public Education maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the board.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Peter Donovan  
Peter Donovan  
Rule Reviewer

/s/ Patty Myers  
Patty Myers, Chair  
Board of Public Education

Certified to the Secretary of State January 30, 2012.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 10.57.217, 10.57.601 through )  
10.57.609, and 10.57.611 relating to )  
educator/specialist discipline )

TO: All Concerned Persons

1. On February 9, 2012, the Board of Public Education published MAR Notice No. 10-57-260 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 244 of the 2012 Montana Administrative Register, Issue Number 3.
2. The board has amended the above-stated rules as proposed.
3. No comments or testimony were received.

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Peter Donovan  
Rule Reviewer

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Patty Myers, Chair  
Board of Public Education

Certified to the Secretary of State May 14, 2012.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

(1) I, Patty Myers, Chair of the Board of Public Education of the State of Montana, by virtue of and pursuant to the authority vested in me by 20-2-114 and 20-2-121, MCA, adopt the annexed rules, to wit:

AMEND:

ARM 10.57.217	APPEAL PROCESS FOR RENEWAL ACTIVITY
10.57.601	REQUEST FOR DISCIPLINE AGAINST LICENSE OF AN EDUCATOR/SPECIALIST: PRELIMINARY ACTION
10.57.601A	DEFINITION OF "IMMORAL CONDUCT"
10.57.601B	REVIEW
10.57.602	NOTICE AND OPPORTUNITY FOR HEARING UPON DETERMINATION THAT SUBSTANTIAL REASON EXISTS TO HOLD A HEARING
10.57.603	HEARING IN CONTESTED CASES
10.57.604	POST HEARING PROCEDURE
10.57.605	SURRENDER OF AN EDUCATOR/SPECIALIST LICENSE
10.57.606	REPORTING OF THE SURRENDER, DENIAL, REVOCATION, OR SUSPENSION OF A LICENSE
10.57.607	APPEAL FROM DENIAL OF AN EDUCATOR/SPECIALIST LICENSE
10.57.608	CONSIDERATIONS GOVERNING ACCEPTANCE OF APPEAL IN CASES ARISING UNDER 20-4-104, MCA
10.57.609	HEARING ON APPEAL
10.57.611	SUBSTANTIAL AND MATERIAL NONPERFORMANCE

as permanent rules of the agency.

(2) This order, after first being recorded in the order register of the department, shall be forwarded to the Secretary of State for filing.

Approved and Adopted May \_\_\_\_, 2012  
Certified to the Secretary of State, May 14, 2012

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Patty Myers, Chair  
Board of Public Education

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

**PRESENTATION:** Request for New Programs - Rocky Mountain College  
Science Broadfield

**PRESENTER:** Linda Vrooman Peterson, Administrator  
Educator Preparation Program  
Office of Public Instruction

Dr. Barbara Vail  
Associate Academic Vice President  
Rocky Mountain College

**OVERVIEW:** The Office of Public Instruction seeks approval from the Board of Public Education of the proposal from Rocky Mountain College to add Science Broadfield to its secondary education curriculum. The Science Broadfield programs for secondary education with concentrations in either Chemistry or Biology meet the Administrative Rules of Montana 10.58.522 (7). Barbara J. Vail, Ph.D., Associate Academic Vice President at Rocky Mountain College will be available for questions. The report is attached.

This is an action item.

**REQUESTED DECISION(S):** Approve the State Superintendent's recommendation for provisional approval for the Rocky Mountain College new programs of Science Broadfield Secondary Education majors with concentrations in either Chemistry or Biology.

**OUTLYING ISSUE(S):** Provisional approval allows Rocky Mountain College to enroll and graduate students with majors in the Science Broadfield programs beginning immediately. These programs will be included in the full-state accreditation review to occur in December 2013.

**RECOMMENDATION(S):** Action

**Rocky Mountain College Professional Education Unit  
Accreditation Review – New Program Exit Report  
March 12-13, 2012**

On March 12-13, 2012, the Office Public Instruction conducted an on-site review of a new program for the Professional Education Unit at Rocky Mountain College. The purpose of the on-site visit was to verify the Unit’s Institutional Report (IR) as meeting the 2007-2014 Montana Professional Educator Preparation Program Standards for the proposed Science Broadfield Secondary Education majors. The review consisted of reviewing documents and corresponding evidence, interviewing staff, faculty and administrators, and a guided tour of the Bair Science Building. The purpose of this document is to summarize the results of the review findings.

**Sub-Chapter 5 – Teaching Areas: Specific Standards Initial Programs**

ARM	TITLE	STATUS
10.58.501	General Requirements	MET
10.58.522	Science <ul style="list-style-type: none"> <li>• Broadfield with Chemistry</li> <li>• Broadfield with Biology</li> </ul>	MET

**Sub-Chapter 8 – Innovative and Experimental Programs**

ARM	TITLE	STATUS
10.58.802	Standards for Approval	MET

**Commendations**

- The RMC community is commended for its collaborative approach when adding educational options and choice for enrolled and prospective students. The development of these new Science Broadfield Secondary Education majors is an example of collaborative spirit across departments and across the RMC community for the benefit of students and the college.

The on-site review team wishes to thank the Rocky Mountain College administration and faculty for the warm welcome and the comfortable work and lodging environments. A special thank you is extended to Dr. Vail for her leadership and also her team in providing exhibits, organizing the visit, and the speedy and competent response of those we called for technical help.

Thank you all for your commitment to Montana education.



**Rocky Mountain College**  
**Professional Education Unit New Program Review**  
**March 12-13, 2012**  
**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.522 Science Broadfield

**Validating Statement:** The Institutional Report (IR), review of supporting materials, and on-site institutional visit verify the Science Broadfield Majors in Secondary Education with concentrations in either Chemistry or Biology meet the ARM 10.58.522 Science standards.

**Sources of Evidence**

- Evidence gathered from the Science Broadfield course requirements, 2011-12 course catalog, course syllabi from Biology, Chemistry, Physics, Environmental Sciences, Mathematics, and Education, and interviews with the Science and Education faculty and Rocky Mountain College administration

**Assessment Aligned to Standard:** Assessments are aligned to standards as described in course syllabi. The Science and Education faculty continue to refine the alignment of assessment criteria and rubrics.

**Evaluation:** Over the past 18 months, the Rocky Mountain College Teacher Education Committee and the Science Department faculty have worked collaboratively to create two Science Broadfield Secondary Education majors with concentrations in either Chemistry or Biology. During the collaborative process, the Science Department faculty aligned Science course objectives and syllabi to the Professional Educator Preparation Program Standards (PEPPS). The Science faculty found that the proposed Broadfields would not require additional resources or staff and, with whole group consensus, agreed to finalize the new Science Broadfields.

Based on the review of the IR, supporting documentation, and interviewing faculty, the reviewer was unable to substantiate that the RMC Science Broadfields met subcomponent ARM 10.58.522(7) (h) "conceptual understanding of earth sciences including course work in astronomy, . . . , meteorology, and oceanography and their relationship with each other." The PEPPS require that astronomy, meteorology, and oceanography content are included in the Science Broadfield Secondary Education majors. The Geology faculty have integrated some of these disciplines' content into required Geology courses but will need to make further inclusions to meet the subcomponent.

**Commendations**

- RMC's Education and Science faculty have developed a strong working relationship while collaboratively creating the Science Broadfield Secondary Education majors.
- Environmental Sciences is commended for its long-standing commitment to including content and context of Indian Education throughout its program.

- Science Department is commended for its commitment to developing robust undergraduate research and inquiry programs available to all students.

### **Improvements**

- Ensure that RMC Science curriculum integrates the required content of astronomy, meteorology, and oceanography into the Science Broadfield programs.
- Correct the Institutional Report to reflect the changes of required credit hours for the Science Broadfield – Chemistry from 69 to 65. The required credit hours remain the same for Science Broadfield – Biology (64 or 65 credits).

### **Accreditation Recommendation**

- Meets Standard

# Institutional Report

STANDARDS	TO BE COMPLETED BY THE INSTITUTION	TO BE COMPLETED BY VISITING TEAM	
		MET	NOT MET
<b><u>10.58.802 STANDARDS FOR APPROVAL</u></b>			
<p>(1) The unit shall provide a clear statement justifying the request for the approval of a new, innovative, or experimental program. That statement shall include the program's assumptions, rationale, and objectives.</p>	<p>(1) Rocky Mountain College (RMC) has an outstanding reputation for producing quality classroom teachers at the elementary and secondary levels. To contribute to this tradition, RMC is proposing to add a science broadfield major which will provide undergraduate pre-service teachers with interdisciplinary expertise teaching science in grades 5-12. This major will provide a valuable alternative to the biology education major that is currently offered, and increase the number of science teachers produced by the College. The science broadfield education program aims to instill in students a lifelong passion for biology, chemistry, earth science, physics, and math, and is committed to producing highly skilled science teachers. In contrast to the biology education major, the science broadfield major will allow students to develop expertise in all of these sciences, while concentrating on either biology or chemistry. Please refer to the proposed program for the requirements for these two options.</p> <p>The biology program studies the breadth of life, from cellular mechanisms to ecosystem processes. Students are encouraged to view biological concepts from historical, political, and ethical perspectives as they integrate new ideas and concepts with older ones. The faculty stresses the process of science and the ability to analyze the surrounding world by generating hypotheses, testing hypotheses, analyzing data, and drawing conclusions. Students develop oral and written communication skills through active participation in lecture/discussions and collaborative projects both in the classroom and in laboratory/field settings. Biology students at RMC study the three main areas of biology: the cellular and molecular basis of life, the design and function of individual organisms, and the ecological interactions between</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



# Institutional Report

STANDARDS	TO BE COMPLETED BY THE INSTITUTION	TO BE COMPLETED BY VISITING TEAM	
		MET	NOT MET
	<p>organisms. Furthermore, research skills, experimental design, and data analysis are emphasized throughout all courses.</p> <p>The chemistry program at RMC uses an interdisciplinary approach to teaching that draws from the other sciences, the arts, and the humanities. The goal of this approach is to ignite student interest in chemistry by showing them the relevance that chemistry has in their lives. The curriculum goes beyond simply covering the fundamentals of the principle areas of inorganic, organic, analytical, physical, and biological chemistry. Students develop creative problem-solving and critical thinking skills, while exploring current ethical issues of chemistry. All students receive hands-on training using a variety of modern analytical instrumentation. Students are also encouraged to participate in research projects.</p> <p>The science broadfield program firmly connects to the liberal arts mission of RMC. Students are encouraged to supplement their knowledge through courses in other disciplines such as history, literature, psychology, and philosophy. To develop real comprehension, students must challenge themselves to incorporate multiple strands of learning into their own disciplinary analysis.</p> <p>Included with this Institutional Report (10.58.522) are the science broadfield education program requirements and individual course objectives. See the additional documents that are being submitted with the institutional report for more information. The RMC education program is committed to creating programs, curricula, and methodologies that will assure our students success in the class room. The Office of Public Instruction recognizes the 5-12 science broadfield endorsement, and it is</p>		



# Institutional Report

STANDARDS	TO BE COMPLETED BY THE INSTITUTION	TO BE COMPLETED BY VISITING TEAM	
		MET	NOT MET
	clear that the creation of this major will enhance the 5-12 education program offerings at Rocky Mountain College.		
(2) Each program shall: (a) be based on a statement of the purpose and objectives of teaching in this area and upon a well-formulated statement of the nature of the public school program that is needed to accomplish these objectives. These statements shall: (i) be prepared cooperatively by the agencies concerned with teacher education;	The purpose of the science broadfield education major is to provide RMC teacher candidates with the knowledge and skills required to teach science in grades 5-12. The RMC Teacher Education Committee approved the major after members of the science and education programs collaboratively developed proposed course syllabi and program requirements. The Rocky Mountain College faculty approved the science broadfield education major on February 3, 2011.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(ii) be based on analyses of current practices and trends in this field of the public school curriculum; and	The courses of the education program and the science broadfield major are aligned to best practices for teaching science.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(iii) be available in writing;	All course syllabi will be on file in the Academic Vice-President's office, and the program requirements are in the catalog.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) include articulation of the competencies teachers need in this area. This statement of competencies shall: (i) include attitudes, knowledge, understanding, skills, and the degrees of expertise teachers need;	The education program has established attitudes, knowledge, understanding, skills and degree of expertise required of all elementary and secondary education students. The conceptual framework and program dispositions are located in the RMC Education Student Handbook. Please see this link: <a href="http://www.rocky.edu/academics/academic-programs/undergraduate-majors/education/pdf/EducationDepartmentHandbook2011.pdf">http://www.rocky.edu/academics/academic-programs/undergraduate-majors/education/pdf/EducationDepartmentHandbook2011.pdf</a> These same ideals will be held for the science broadfield education major.	<input checked="" type="checkbox"/>	<input type="checkbox"/>



# Institutional Report

STANDARDS	TO BE COMPLETED BY THE INSTITUTION	TO BE COMPLETED BY VISITING TEAM	
		MET	NOT MET
(ii) be based on the program's statement of objectives outlined in (2)(a); and	See above information	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(iii) be available in writing;	All program components will be clearly stated in the college catalog and administered by the RMC student records office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) include a description of the process used to prepare personnel;	<p>All faculty members teaching courses pertaining to the science broadfield education major will be, at minimum, instructors with masters degrees; however, the majority of the current RMC faculty members teaching these courses hold doctorates. The faculty members of the science broadfield program at RMC are:</p> <p>Biology:            Dr. Daniel Albrecht            Dr. Phil Jensen            Dr. Claire Oakley            Dr. Mark Osterlund</p> <p>Chemistry:            Dr. Cristi Hunnes            Dr. John Barbaro            Dr. Gavin Kirton</p> <p>Environmental Science:            Dr. Jennifer Lyman            Professor Kayhan Ostovar</p> <p>Geology:            Dr. Derek Sjostrom            Dr. Tom Kalakay</p> <p>Physics:            Dr. Toby Anderson</p> <p>Mathematics:            Dr. Ulrich Hoensch            Professor Deborah Wiens            Professor Robyn Cummings</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



# Institutional Report

STANDARDS	TO BE COMPLETED BY THE INSTITUTION	TO BE COMPLETED BY VISITING TEAM	
		MET	NOT MET
	Professor Elizabeth Fulton The secondary education program is the responsibility of Dr. Shelley Ellis.		
(d) develop provisions for keeping records of the students' progress in the program;	All course grades and registration information will be maintained by the Office of Student Records as supervised by the Academic Vice President.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(e) make arrangements for systematic and scheduled program evaluation by both the unit and the Office of Public Instruction;	The science broadfield major component of the education program will be a part of the RMC regularly scheduled program evaluation as well as that scheduled by the Montana Office of Public Instruction and the state Board of Education .	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(f) be supported by identifiable human and physical resources that will be available throughout the duration of the program. Any resources not under the control of the institution shall be outlined and confirmed by the Board of Public education;	The Rocky Mountain College science broadfield education major will be supported by current science and education faculty. Current faculty FTE, classroom and laboratory space are sufficient to provide the major.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(g) include a timetable setting forth: (i) the program's beginning and ending dates;	Upon approval by the Montana Board of Public Education, RMC will begin the process of communicating the availability of the new major and endorsement to students at RMC. All required courses are in the catalog and currently being offered.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(ii) the sequence of activities that will occur;	As mentioned above, all departments will be notified of the science broadfield education major upon approval by the Montana Board of Public Education. Admissions and faculty advisors will be provided the necessary information to inform prospective and current education students. The Teacher Education Committee will prepare course schedules and refine curriculum as outlined in the course syllabi.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(iii) selection and schedules of intervals for competency and program evaluations; and	The AVP and division chairs review course evaluations each semester to determine the success of individual courses. A complete program evaluation will be acquired at the end of the first complete cycle of courses. As previously mentioned, the	<input checked="" type="checkbox"/>	<input type="checkbox"/>



# Institutional Report

STANDARDS	TO BE COMPLETED BY THE INSTITUTION	TO BE COMPLETED BY VISITING TEAM	
		MET	NOT MET
	education department as a whole prepares an annual program evaluation. The science broadfield education major component will ultimately become a part of the overall program evaluation.		
(iv) the approximate dates for submitting periodic program reports to the appropriate institutional officials and to the superintendent of public instruction; and	Annual program evaluations are due to the RMC assessment committee the first part of every May. The science broadfield education major program evaluation will be a part of the overall evaluation of the education program.. Program reports will be provided to the superintendent of public instruction upon request or when a site review team requests the information	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(h) ensure that program evaluations have definite provisions for performance criteria and follow-up at specified intervals. The evaluations shall: (i) be guided by a plan that defines and specifies the kinds of evidence that will be gathered and reported;	The education program currently embraces the INTASC standards as a primary instrument for program evaluation. The science broadfield education performance criteria will be aligned to individual course requirements. Career Services will gather data regarding job placement relating to science education graduates.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(ii) give information that identifies areas in the program that need strengthening; and	Program assessment and evaluation instruments will guide faculty in the revision of course and program requirements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(iii) be used to suggest new directions for program development.	See Above	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) The preparing institution shall be responsible for the administration of the program. Within this responsibility it shall establish and designate the appropriate division, school, college, or department within the institution to act on all matters relating to such program, according to general institutional policies.	The Academic Vice-President and the Associate Vice-President are responsible for the administration of the education program. The education program is a part of the Professional Studies Division and the science broadfield program is part of the Science and Mathematics Division. The science broadfield education major will straddle these divisions and receive the same oversight as all secondary programs. The Teacher Education Committee, chaired by the Associate Academic Vice President, meets on a weekly basis to monitor all aspects of the education program The science broadfield education major will become a part of this process. All general institutional policies	<input checked="" type="checkbox"/>	<input type="checkbox"/>



# Institutional Report

STANDARDS	TO BE COMPLETED BY THE INSTITUTION	TO BE COMPLETED BY VISITING TEAM	
		MET	NOT MET
	will be followed as it relates to this proposed major.		
(History: 20-2-114, MCA; <u>IMP</u> , 20-2-121 MCA; <u>NEW</u> , 1979 MAR p. 492, Eff. 5/25/79; <u>AMD</u> , 1984 MAR p. 831, Eff. 5/18/84; <u>AMD</u> , 2007 MAR p. 190, Eff. 2/9/07.)			



## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

- PRESENTATION:** Recommend Approval of Notice of Amendment of pertaining to Area of Permissive Specialized Competency – Dance Education
- PRESENTER:** Linda Vrooman Peterson  
Accreditation Division Administrator  
Office of Public Instruction
- OVERVIEW:** The Office of Public Instruction presents to the Board of Public Education (BPE) the Notice of Amendment pertaining to Admin. R. Mont. 10.57.412(3) and 10.58.527(8) for the Area of Permissive Specialized Competency in Dance Education. The State Superintendent recommends approval of the Notice of Amendment and adoption of the annexed rules.
- REQUESTED DECISION(S):** Recommend Approval of Notice of Amendment and adoption of the annexed rules pertaining to Area of Permissive Specialized Competency in Dance Education Admin. R. Mont. 10.57.412(3) and 10.58.527(8).
- OUTLYING ISSUE(S):** None
- RECOMMENDATION(S):** Action

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 10.57.412 and 10.58.527 ) PROPOSED AMENDMENT  
relating to areas of specialized )  
competency )

TO: All Concerned Persons

1. On March 13, 2012 at 1:30 p.m. the Board of Public Education will hold a public hearing in the Superintendent's conference room at 1227 11th Avenue, Helena Montana, to consider the proposed amendment of the above-stated rules.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m. on February 28, 2012, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

10.57.412 CLASS 1 AND 2 ENDORSEMENTS (1) and (2) remain the same.

(3) A license holder may qualify for a statement of specialized competency by the completion of a minimum of 20 semester college credit hours or equivalency in a specific academic area as approved by the Board of Public Education. Approved areas of permissive specialized competency are: early childhood education, gifted and talented education, technology in education, ~~and~~ mentor teacher, and dance.

(4) through (7) remain the same.

AUTH: 20-4-102, MCA

IMP: 20-4-106, 20-4-108, MCA

10.58.527 AREAS OF PERMISSIVE SPECIAL COMPETENCY (1) through (7) remain the same.

(8) The dance permissive specialized competency program requires that successful candidates demonstrate:

(a) knowledge of basic dance vocabulary and major characteristics of dance styles and techniques, including:

(i) technical proficiency in one dance style and exposure to others; and

(ii) clear movement demonstrations and auditory prompts, in relation to music and counts;

- (b) knowledge of a variety of choreographic principles and processes, including:
  - (i) fluency with music and emerging technologies as tools of expression;
  - (ii) direction/supervision of a dance production with artistic integrity; and
  - (iii) analysis and evaluation of dance works;
- (c) knowledge of dance as a reflection of both historical periods and cultural diversity, including Montana American Indian cultures; and
- (d) knowledge and implementation of research-based teaching strategies and skills for dance, including:
  - (i) developing curriculum, planning instructional units for K-12 students, and assessing student progress in dance;
  - (ii) implementing classroom procedures that promote health, safety, and injury prevention;
  - (iii) integrating dance into other content areas; and
  - (iv) teaching dance as a discrete art form.

AUTH: 20-2-114, MCA

IMP: 20-1-501, 20-2-121, MCA

4. REASON: Dance teachers are currently being hired in K-12 Montana schools. Although Montana has Arts Standards that include dance, there is no teacher competency in place. The proposed rules would permit individuals with a minimum of 20 semester college credits in dance to request a statement of specialized competency to be added to their educator licenses.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail [pdonovan@mt.gov](mailto:pdonovan@mt.gov) and must be received no later than 5:00 p.m., March 13, 2012.

6. Peter Donovan, Executive Secretary for the Board of Public Education has been designated to preside over and conduct this hearing.

7. The Board of Public Education maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the board.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version

of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Peter Donovan  
Peter Donovan  
Rule Reviewer

/s/ Patty Myers  
Patty Myers, Chair  
Board of Public Education

Certified to the Secretary of State January 30, 2012.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 10.57.412 and 10.58.527 )  
relating to areas of specialized )  
competency )

TO: All Concerned Persons

1. On February 9, 2012, the Board of Public Education published MAR Notice No. 10-57-259 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 241 of the 2012 Montana Administrative Register, Issue Number 3.

2. The board has amended the above-stated rules as proposed.

3. No comments or testimony were received.

\_\_\_\_\_  
Peter Donovan  
Rule Reviewer

\_\_\_\_\_  
Patty Myers, Chair  
Board of Public Education

Certified to the Secretary of State May 14, 2012.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

(1) I, Patty Myers, Chair of the Board of Public Education of the State of Montana, by virtue of and pursuant to the authority vested in me by 20-2-114 and 20-2-121, MCA, adopt the annexed rules, to wit:

AMEND:

ARM 10.57.412 CLASS 1 AND 2 ENDORSEMENTS  
10.58.527 AREAS OF PERMISSIVE SPECIALIZED COMPETENCY

as permanent rules of the agency.

(2) This order, after first being recorded in the order register of the department, shall be forwarded to the Secretary of State for filing.

Approved and Adopted May \_\_\_\_, 2012  
Certified to the Secretary of State, May 14, 2012

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Patty Myers, Chair  
Board of Public Education

## EXECUTIVE SUMMARY

DATE: MAY 2012

**PRESENTATION:** Recommend approval of State Exit Report of the Focused Accreditation Review of the Professional Education Unit at Montana State University – Northern (MSU-Northern)

**PRESENTER:** Linda Vrooman Peterson, Administrator, Office of Public Instruction  
Audrey Peterson, Focused Accreditation Review Team Chairperson  
Dr. Carol Reifschneider, MSU-Northern Acting Dean of Education, Arts and Sciences, and Nursing  
Dr. Rosalyn Templeton, MSU-Northern Provost

**OVERVIEW:** From January 16-18, 2012, a four-person team conducted a focused accreditation review of the Professional Education Unit (Unit) at MSU-Northern. The purpose of the focused on-site review was to verify that the standards previously receiving provisional approval meet the Professional Educator Preparation Program Standards (PEPPS).

The team recommends to the Superintendent of Public Instruction provisional approval of specific standards designated as being “Met with Weakness.” Provisional approval requires further action by the Professional Education Unit at MSU-Northern. Required action includes:

- 1) In May 2012, the Interim Dean, or a designee, of the College of Education, Arts and Sciences, and Nursing, will describe to the Board of Public Education (BPE) the Unit's plan for and progress on meeting standards designated as "Met with Weakness."
- 2) If the report to the BPE indicates that the Unit is making progress toward meeting the standards, the BPE will grant provisional approval for these standards.
- 3) By June 22, 2012, the Unit will submit to the Office of Public Instruction a written progress report.
- 4) In July 2012, the progress report will be presented to the BPE by the Interim Dean, or a designee, of the College of Education, Arts and Sciences, and Nursing.
- 5) If the BPE acknowledges that progress is continuing toward meeting the specific standards, the team chairperson and appropriate team members will return to MSU-Northern in September 2012, for an on-site accreditation review focusing only on those standards that were provisional approved.

This is an action item.

**REQUESTED DECISION(S):** The State Superintendent recommends approval of the State Exit Report of the Focused Accreditation Review of the Professional Education Unit at Montana State University – Northern (MSU-Northern); further the State Superintendent recommends provisional approval of specific standards which were designated as “Met with Weakness.”

**BPE PRESENTATION**

**Montana State University – Northern Professional Education Unit  
State Focused Accreditation Review Exit Report  
January 16-18, 2012**

Audrey Peterson, Chairperson

From January 16-18, 2012, a four-person team conducted a focused accreditation review of the Professional Education Unit (Unit) at Montana State University-Northern (MSU-Northern). The purpose of the focused on-site review was to verify that the standards previously receiving provisional approval, listed below, meet the Professional Educator Preparation Program Standards (PEPPS).

- 10.58.210      Conceptual Framework (Met with Weakness)
- 10.58.305      Assessment System and Unit Evaluation (Not Met)
- 10.58.308      Faculty Qualifications (Met with Weakness)
- 10.58.512      School Counseling (Met with Weakness)
- 10.58.521      Reading Specialist K-12 (Met with Weakness)
- 10.58.522      Science (7)(a) (Met with Weakness)
- 10.58.601      Program Planning (Met with Weakness)
- 10.58.602      Teaching Areas – Advanced (Met with Weakness)
- 10.58.603      Assessment – Advanced (Met with Weakness)
- 10.58.705      School Principals, Superintendents, Supervisors and Curriculum Directors  
(Not Met)

During the November 2009, Accreditation Review, the team recommended provisional approval of the Standards designated as being "Met with Weakness" and "Not Met." Provisional approval requires further action by the Unit at MSU-Northern. The MSU-Northern Provost met with the Board of Public Education in May 2010, to describe their plan for and progress on meeting those standards that were designated as "Met with Weakness" and "Not Met."

In January 2012, the team chairperson and appropriate team members, in consultation with the OPI Accreditation staff, returned for an on-site accreditation review of the Unit at MSU – Northern, focusing only on those standards that were provisionally approved. During the focused accreditation review, the four-person team examined the evidence provided by the Unit and interviewed faculty, administrators, and current and graduated



candidates of the specific programs being reviewed. Following are the findings of the January 2012, focused review team for the specific standards under review. The team chairperson will report the team's findings to the Superintendent of Public Instruction of the following standards:

**Sub-Chapter 2 – Organization and Administration of Teacher Education**

<b>ARM</b>	<b>TITLE</b>	<b>STATUS</b>	<b>NARRATIVE REPORT Page Number</b>
<b>10.58.210</b>	<b>Conceptual Frameworks</b>	<b>Initial Program MET</b>  <b>Advanced Program MET</b>	<b>5-6</b>

**Sub-Chapter 3 – Curriculum Principles and Standards: Basic Program**

<b>ARM</b>	<b>TITLE</b>	<b>STATUS</b>	<b>NARRATIVE REPORT Page Number</b>
<b>10.58.305</b>	<b>Assessment System and Unit Evaluation</b>	<b>Initial Program MET w/Notation</b>  <b>Advanced Program MET w/Weakness Provisional Approval</b>	<b>7-8</b>
<b>10.58.308</b>	<b>Faculty Qualifications, Performance, and Development</b>	<b>MET</b>	<b>9-10</b>

**Sub-Chapter 5 – Teaching Areas: Specific Standards Advanced Programs**

<b>ARM</b>	<b>TITLE</b>	<b>STATUS</b>	<b>NARRATIVE REPORT Page Number</b>
<b>10.58.512</b>	<b>School Counseling K-12</b>	<b>MET w/Notation</b>	<b>11-12</b>

**Sub-Chapter 5 – Teaching Areas: Specific Standards Initial Programs**

<b>ARM</b>	<b>TITLE</b>	<b>STATUS</b>	<b>NARRATIVE REPORT Page Number</b>
<b>10.58.521</b>	<b>Reading Specialists K-12</b>	<b>MET</b>	<b>13-14</b>
<b>10.58.522</b>	<b>Science</b>	<b>MET 10.58.522(7) (a)</b>	<b>15</b>



**Sub-Chapter 6 – Curriculum Principles and Standards: Advanced Programs**

<b>ARM</b>	<b>TITLE</b>	<b>STATUS</b>	<b>NARRATIVE REPORT Page Number</b>
<b>10.58.601</b>	<b>Program Planning and Development</b>	<b>Advanced Graduate Programs MET</b>  <b>School Counseling and Learning Development MET w/Weakness Provisional Approval</b>	<b>16</b>
<b>10.58.602</b>	<b>Teaching Areas: Advanced Programs</b>	<b>Advanced Graduate Programs MET</b>  <b>School Counseling and Learning Development MET</b>	<b>17</b>
<b>10.58.603</b>	<b>Assessment of Advanced Programs</b>	<b>School Counseling and Learning Development MET w/Weakness Provisional Approval</b>	<b>18</b>

**Sub-Chapter 7 – Specializations: Supervisory and Administrative Programs**

<b>ARM</b>	<b>TITLE</b>	<b>STATUS</b>	<b>NARRATIVE REPORT Page Number</b>
<b>10.58.705</b>	<b>School Principals, Superintendents, Supervisors and Curriculum Directors</b>	<b>K-12 Principal Endorsement Inactive Status: Not Applicable</b>	<b>19</b>

**Commendations**

- MSU-Northern is to be commended for the significant progress that has been made since the last review team’s visit. Their process of refining and clarifying the Conceptual Frameworks created clear, thorough, and intentional responses, and appears to have had a unifying effect on the faculty and the MSU-Northern Professional Education Unit (Unit) as a whole. The Unit’s enthusiasm and



dedication to their programs and candidates were very evident during our focused review. The Unit is encouraged to maintain its forward momentum and good progress as they continue to develop and improve programs.

- The review team continues to note a strong investment in student success that is evident throughout the Unit and the institution. It is clear that faculty and administration are dedicated to supporting student development, and this has helped to create a positive culture for student success.
- The Professional Education Unit has done a very good job of recognizing and responding to the unique nature of the geographic area served by MSU-Northern and the distinct needs of their students.
- Members of the Focused Accreditation Review Team extend their appreciation for the gracious hospitality and receptivity of the faculty, staff, and administration during the focused visit.



**Montana State University-Northern**  
**Professional Education Unit Focused Accreditation Review**  
**January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.210 CONCEPTUAL FRAMEWORK(S)

**Validating Statement:** During the focused visit, reviewers verified that the Unit, after engaging in numerous discussions since the 2009 program review, approved a unit mission statement organized around the theme *Community of Learners* with two conceptual frameworks, one providing foundational clarity and direction for the initial programs and the other articulating organizing themes and more detailed focus areas for the advanced programs.

With the input of the Professional Education Unit initial program faculty and the goal of clearly articulating the purposes of their teacher preparation program, a subcommittee crafted a refocused initial program conceptual framework (IPCF). Stakeholders in the larger professional community were surveyed and invited to comment, and after several drafts they collectively reached agreement that candidates for initial licensure will demonstrate a **Commitment to Content Knowledge**, a **Commitment to Pedagogy**, and a **Commitment to Diversity**. The conceptual framework appears in program syllabi, is well understood by students and is supported and used by faculty, both at MSU-N and in the larger professional community.

The advanced program conceptual framework (APCF) has been well developed over time. It was updated and refined by the graduate faculty to emphasize a Reflective Practitioner focus for programs and candidates, articulating more detailed organizing themes of **Purposeful Reflection, Facilitated Learning, Assessment, Diversity and Technology**. Evidence supports the role of the conceptual framework in providing the basis for coherence throughout the advanced programs, particularly among students in the Learning and Development program and in assessment of competencies in that program.

**Sources of Evidence:** Montana State University–Northern Focused Visit Summary Report, Meetings and Interviews with Administrators, Faculty, and Students, Course Syllabi, and Exhibits

**Assessment Aligned to Standard:** At the initial level, assessments and standards are clearly aligned with the conceptual framework and revision of new handbooks is underway. At the advanced level, the program outcomes and candidate performances are aligned with the Montana PEPP Standards and the Society for Technology in Education National Educational Technology (ISTE NET) Standards.



**Evaluation:** The conceptual framework at the initial level is now focused such that it is being clearly communicated and can be efficiently and meaningfully assessed for candidate and program improvement.

At the advanced level, the conceptual framework is well understood and referenced in the Learning Development (*Instruction and Learning*) program. However, the conceptual framework is so deeply embedded in the School Counseling program that it is not transparent and does not appear to be recognized, understood or easily articulated by students.

**Commendations:** The initial level undergraduate program is to be commended for responding to recommendations made by the November 2009 review team to refocus and simplify the previous conceptual framework. Revisions have been effective in communicating program goals to students and stakeholders, and are central to the processes of assessing candidate and program performance and collating and disseminating meaningful data.

At the initial level, program faculty have been intentional about inviting involvement from the larger academic community on campus and professionals in the Havre educational community in development and communication of their conceptual framework.

**Improvements:** At the initial level, program faculty are urged to carry out their plan for extending and improving the Indian Education for All element of the conceptual framework throughout the secondary programs.

In the School Counseling program, faculty members are urged to communicate the conceptual framework to School Counseling candidates.

### **Accreditation Recommendation**

- Meets standard – Initial conceptual framework
- Meets standard – Advanced conceptual framework



**Montana State University-Northern**  
**Professional Education Unit Focused Accreditation Review**  
**January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.305 ASSESSMENT SYSTEM AND UNIT EVALUATION

**Validating Statement:** During the focused site visit, reviewers verified significant progress in the initial undergraduate program in its documentation of candidate outcome performance and accountability of the Unit through implementation of an assessment system. The assessment system involves collecting, aggregating, analyzing, reporting and sharing data both within the Unit and with stakeholders. New written evaluation forms have been developed and implemented. While there is a schedule for regular reviews, the details of the review schedule are not yet realized.

The advanced graduate programs have made progress with development of a data warehouse and some data collection. However, the reviewers could not verify implementation of an assessment system. Connections from the Conceptual Framework through candidate outcome performance are weak. While individual candidate data are strong, it does not appear that aggregation of data for informing overall program evaluation is occurring.

**Sources of Evidence:** MSU-Northern Summary Report, electronic exhibits, overview PowerPoint presentation, initial and advanced faculty presentations, interviews with advanced program faculty and students

**Assessment Aligned to Standard:** The initial undergraduate program meets the PEPPS assessment standard.

The advanced graduate programs have not developed a system. As required by ARM 10.58.305 (1)(a), the professional community has not been involved in development of a system. Nor as required by ARM 10.58.305 (1)(b), is there regular comprehensive information ... regularly and systematically compiled or summarized for analyses to improve performance, program quality or unit operations. Evidence does not demonstrate that the advanced graduate programs in the Unit are regularly and systematically using data to evaluate the efficacy of courses, program or clinical experiences as required by ARM 10.58.305 (1)(c).

**Evaluation:** The initial undergraduate program has put the parts of its assessment system together under a revised and simplified conceptual framework. Data from key assessments are entered into an electronic database. Faculty have reviewed and analyzed the minimal data currently available to them. These analyses have provided insights into the program and possible areas for improvement. There is a schedule outlined for



review; however, the details of “how to” review the totality of available data has not yet been fully developed.

The advanced programs are at different places in terms of meeting the standard. The school counseling program has ample disaggregated data providing the ability for detailed evaluation of individual student progress. However, the review team could not verify a plan for data aggregation to inform necessary programmatic changes. Individual assessment and resulting data are not obviously linked to the conceptual framework or to stated program student outcomes.

The Learning Development (Instruction and Learning) program has a well-defined linkage from the conceptual framework through the final portfolio evaluation. However, the review team could not verify a plan to aggregate individual candidate data or to use these aggregated data for program review and improvement.

**Commendations:** The initial undergraduate program responded to address recommendations made by the November 2009 review team with resulting positive initial steps toward implementation of a comprehensive assessment system.

**Improvements:** The initial undergraduate program must maintain momentum toward full implementation of its assessment system.

The advanced programs must design, develop and implement a comprehensive assessment system that includes aggregation of data in addition to the existing array of disaggregated individual student data.

#### **Accreditation Recommendation**

- Meets Standard with Notation—Initial Undergraduate Programs
- Meets Standard with Weakness—Advanced Graduate Programs

**Montana State University-Northern**  
**Professional Education Unit Focused Accreditation Review**  
**January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.308 FACULTY QUALIFICATIONS, PERFORMANCE, AND DEVELOPMENT

**Validating Statement:** Supporting materials were reviewed and interviews conducted with students, faculty, the Professional Education Unit, and administration. In all of these contexts, it was made clear that the process for selecting and hiring adjunct faculty has been formalized, and these faculty have been involved in program development in multiple ways. There is evidence that processes to support continued professional development, including technology support, are operationalized.

**Sources of Evidence:** Evidence gathered from Unit presentations, and interviews with administration, department faculty, Professional Education Unit members, students, and others

**Assessment Aligned to Standard:** The assessment in this area appears to align to the standard.

**Evaluation:** As noted in previous reviews, it is quite apparent that MSU-N faculty are committed to both student success and program integrity. Due to circumstances relating to faculty turnover, geography, funding constraints, and other influences, the Unit has continued to rely on part time and adjunct instructors to address course needs. Based on multiple interviews with various instructional and administrative staff, it is clear that a sound process for faculty selection is in place. This process requires thorough analysis of qualifications for all teaching positions and involves review by the Department Chair, Dean, and Provost. This helps to ensure consistent and informed evaluations of faculty qualifications.

Additionally, evidence was provided to suggest that part-time and adjunct faculty are regularly informed of changes to program standards, assessments, procedures, and policies, and where possible have been included in various levels of programmatic decision-making. At the Great Falls campus, where adjuncts have been used more extensively, permanent full-time personnel have been effective in meeting regularly with faculty to review program changes and incorporate input. Multiple adjunct faculty communicated with the review team that their work with the Unit has been rewarding and effective, and that they have felt adequately valued and informed.

The previous review also articulated a need for a system that supports faculty professional development (PD). Evidence was provided that suggests improvements have been made in this regard. Proposals for professional development experiences are



submitted, reviewed, and evaluated alongside their relevance to the Unit's Conceptual Framework and Mission. Further, successful applicants must return from PD experiences and actively disseminate their findings/learnings among other Unit staff in addition to incorporating new information into course work. Administration has committed to supporting PD with funds. In certain instances, faculty course loads have been reduced to 12 credits, allowing more opportunities for pursuing PD. Based on the above examples; it appears that the climate for supporting PD has improved within the Unit.

Another topic under review from this standard is technology upgrades to support best practice among faculty. In this regard, several positive developments are noted to have occurred since the last review. Faculty and lab workstations have been upgraded and/or replaced, and this was done across the board, rather than a few instructors at a time. The development of an institutional Technology Plan, currently underway, will help to promote a shared and consistent vision of how appropriate technology integration can support student success. Education students reported feeling very well prepared in the area of educational technology.

### **Commendations**

- Available evidence confirmed that members of the Professional Education Unit implemented the previous reviewers' recommendations relevant to faculty qualifications, performance, and development.
- The reduction of course load and establishment of funds to support professional development are important steps that help augment the expertise and teaching efficacy of faculty, as well as build an improved climate for excellence and assist in faculty retention.
- The establishment of a full-time faculty position at the Great Falls site will continue to ensure consistency and program alignment among the other faculty at the site.
- The inclusion of part-time and adjunct faculty in ongoing program development and evaluation is a critical element to the Unit's program fidelity and consistency.

### **Improvements**

- Continue to be mindful that part-time and adjunct faculty should be appointed to supplement – not supplant – terminally degreed tenure-track faculty.
- As mentioned in previous review, consider pursuing opportunities for faculty professional development through applied research with K-12 school partners.

### **Accreditation Recommendation**

- Meets Standard



**Montana State University-Northern**  
**Professional Education Unit Focused Accreditation Review**  
**January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.512 SCHOOL COUNSELING K-12

**Validating Statement:** During the focused review, reviewers verified that content standards are being met. There is evidence for individual candidate assessment; however, evidence of a programmatic system of evaluation was not available to the team.

**Sources of Evidence:** Interviews, Course Syllabi, Program Documents, MSU-Northern Summary Report

**Assessment Aligned to Standard:** Syllabi are aligned with PEPP Standards and candidate competencies are assessed at the course level. Individual candidate assessment data continue to be collected and analyzed. However, programmatic assessment data collection and analysis were not evident.

**Evaluation:** The Counselor Education program prepares candidates for work as K-12 school counselors as well as for community and agency work. Candidates have the option to be dually licensed as a Licensed School Counselor and/or a Licensed Clinical Professional Counselor. School counselors are required to complete a 45-credit master's degree; the MSU-Northern degree program exceeds the minimal requirement for school counselors. The Unit's decision to prepare the school counselors at the same requirement level as the mental health counseling candidates was in response to the rural needs of Montana, as often the school counselor is the only person in some rural communities in Montana with mental health background and education.

Documentation requirements for substandards were met. Specifically identified were standards ARM 10.58.512 (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(h), and (1)(i). Educational philosophies, substandard ARM 10.58.512 (1)(d) are addressed in CNSL 610 and CNSL 671. Knowledge and role of ethnic and cultural heritage of Montana American Indians is addressed in CNSL 652. Evidence was provided for completion of supervised counseling practicum and internship experiences.

**Commendations:** There has been a great effort to produce documentation to address issues needing improvement. Dr. Darlene Sellers is a dedicated professional and committed to the success of the program and to preparing Reflective Practitioners. She reports that the program gets positive feedback regarding the performance of their graduates and interns. She reports positive rapport with the communities in which they work and they get student referrals based on these positive associations.



**Improvements:** A stronger program identity for K-12 school counseling is recommended, with caution against having the larger clinical/agency focus eclipse the school counseling focus. Candidates are encouraged to join state and national professional associations and to attend conferences to promote professional “educator” identity and to stay current on trends in contemporary K-12 School Counseling Profession.

Program faculty are urged to continue work in developing measures of student competency and connecting those to state standards. Measurements of performance should be directly related to state standards for candidate competency. Faculty must also collect and aggregate data, including feedback from employers and site supervisors, to help in program evaluation and improvement efforts.

**Accreditation Recommendation**

- Meets Standard with Notation



**Montana State University-Northern**  
**Professional Education Unit Focused Accreditation Review**  
**January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.521 READING SPECIALIST K-12

**Validating Statement:** Supporting materials were reviewed and interviews were conducted with faculty and administration. The standard is met.

**Sources of Evidence:** Evidence gathered from MSU-N Institutional Report, MSU-N 2011-2012 Catalog, Course Syllabi, Unit presentations, student work samples, and interviews with administration, department faculty, and others

**Assessment Aligned to Standard:** The assessment in this area appears to align to the standard.

**Evaluation:** The Professional Education Unit (PEU) was in the process of revising and re-designing the Reading Specialist K-12 minor at the time of the last Office of Public Instruction (OPI) review in November 2009. Since that time considerable progress has been made to address the concerns articulated in that review. One significant issue prior to this revision was the need for a true K-12 focus in the Reading Specialist (RS) program. The previous scope and sequence was clearly oriented to K-5 only. Since that time the PEU has rebuilt the RS minor to include course work specific to the needs of adolescent readers. A review of the syllabi for added courses EDUC 328, 345, 335, and 356 clearly shows that this revision addresses reading considerations in grades 6-12, including diagnostics, motivation, youth literature, reading instructional strategies, and numerous other topics necessary for a program that truly meets the needs of all K-12 learners.

The revised RS scope and sequence incorporates research-based reading strategies as evidenced by the addition of course work in phonics and word identification, media literacy, and a special writing exploratory course that focuses on a holistic approach to literacy development. In 2012-2013, faculty and key adjunct faculty will be involved in systematic review of the RS minor to continue to ensure its alignment with standards, institutional mission, and the initial conceptual framework.

**Commendations**

- It is evident that members of the Professional Education Unit responded to the recommendations relevant to the Reading Specialist minor from previous reviewers. The revised RS program became operational soon after the last visit by the review team.



- The addition of Ms. Virginia Braithwaite will very likely add great depth and experience to the Education Department on several levels, especially given her expertise and credentials relative to Reading instruction.
- The inclusion of the newly created “Integrating Indian Education for All across the Curriculum” course to the Reading Specialist minor course sequence adds an important curricular connection, both in terms of relevance to Native and non-Native students in the program, and also in regard to the presence of IEFA related topics throughout the PEPPS. Students may be able to act as ambassadors for the inclusion of these curricular elements as they interact with teachers in local schools.

### **Accreditation Recommendation**

- Meets Standard

**Montana State University-Northern  
Professional Education Unit Focused Accreditation Review  
January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.522 7(a) SCIENCE

**Validating Statement:** Supporting materials were reviewed and interviews were conducted with faculty and administration. The standard is met.

**Sources of Evidence:** Evidence gathered from MSU-N Institutional Report, MSU-N 2011-2012 Catalog, Course Syllabi, Unit presentations, student work samples, and interviews with administration, department faculty, and others

**Assessment Aligned to Standard:** The assessment in this area appears to align to the standard.

**Evaluation:** It was determined in the previous accreditation review that the topic of evolution as the unifying concept for all biology was not represented adequately in education science content courses. Since that time the Professional Education Unit has taken clear steps to correct this through the establishment of a specific course, EDUC 420 Evolution, as well as to infuse these concepts effectively and thoroughly in other course work. Evidence was provided that showed the breadth of content in this course work, including a comprehensive syllabus for EDUC 420 and student samples, including evolutionary biology portfolios. The instructor for this course provided clear explanations of student outcomes and projects, and explained that students are initially introduced to evolutionary biology through the general BIOL 101 course. There was clear evidence that the PEU recognized the need to provide a coherent and well-developed system for inclusion of evolution in the science core, and implemented it effectively.

It was pointed out by the interim dean that the Evolution course's initial designation as a "special topics course" was necessary in order to offer it immediately. The course now has an assigned number as a component in the regular science core.

**Commendation**

- The Professional Education Unit implemented the inclusion of evolutionary theory across the general science sequence.

**Accreditation Recommendation**

- Meets Standard



**Montana State University-Northern**  
**Professional Education Unit Focused Accreditation Review**  
**January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.601 PROGRAM PLANNING AND DEVELOPMENT

**Validating Statement:** The focused review team verified carefully planned advanced graduate degree programs. Because the K-12 school principal endorsement has been discontinued, concerns of the previous on-site review team are not applicable for this review.

**Sources of Evidence:** MSU Northern Summary Report, electronic exhibits, overview PowerPoint presentation, initial and advanced faculty presentations, interviews with advanced program faculty and students

**Assessment Aligned to Standard:** With the exception of ARM 601 1 (e), this standard meets the PEPPS standards. However, because there is not a comprehensive assessment system at the advanced level, it is not possible to make information and data on program evaluation accessible.

**Evaluation:** The school counseling and learning development (Instruction and Learning) programs meet the program planning standard.

**Improvements:** The advanced graduate programs must develop and implement a comprehensive assessment system connecting the conceptual framework and program objectives with student outcome performances. Resulting data must be aggregated and shared with internal and external constituencies.

**Accreditation Recommendation**

- Meets Standard—Advanced Graduate Programs
- Meets Standard with Weakness—ARM 601 (1)(e) School Counseling and Learning Development (Instruction and Learning)

**Montana State University-Northern  
Professional Education Unit Focused Accreditation Review  
January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.602 TEACHING AREAS:  
ADVANCED PROGRAMS

**Validating Statement:** The focused on-site team validated that the Advanced Graduate Programs met this standard.

**Sources of Evidence:** MSU-Northern Summary Report, electronic exhibits, overview PowerPoint presentation, initial and advanced faculty presentations, interviews with advanced program faculty and students

**Assessment Aligned to Standard:** The Advanced Graduate Programs meet PEPP Standard on advanced Teaching Areas.

**Evaluation:** The focused on-site team verified that previous concerns regarding ARM 10.58.602 3 (c) have been addressed. Breadth, specialized aspects and research/developments in the fields of study are present in both school counseling and learning development (Instruction and Learning).

**Accreditation Recommendation**

- Meets Standard—Advanced Graduate Programs  
School Counseling and Learning Development (Instruction and Learning)

**Montana State University-Northern**  
**Professional Education Unit Focused Accreditation Review**  
**January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.603 ASSESSMENT OF ADVANCED PROGRAMS

**Validating Statement:** The focused on-site team verified assessment of individual progress in the school counseling program. The review team could not find evidence that these assessments have been aggregated to inform decisions about program modifications or improvements.

The Learning Development (Instruction and Learning) program has outcome assessments aligned with the conceptual framework; however, the team could not verify that individual candidate outcome data are aggregated and reported in order to inform decisions about the program.

**Sources of Evidence:** MSU-Northern Summary Report, electronic exhibits, overview PowerPoint presentation, initial and advanced faculty presentations, interviews with advanced program faculty and students

**Assessment Aligned to Standard:** Evidence of meeting the individual standard indicators with regard to individual student progress is well documented.

**Evaluation:** ARM 10.58.603 indicates that "... programs shall meet or exceed standards of performance equivalent to those established for national professional education accreditation for candidate competence and program quality." Without an assessment system that aggregates disaggregated individual student data to determine trends, themes and an overarching perspective of the program, meeting this expectation is not possible.

**Commendations:** Both Advanced Graduate programs do an excellent job of assessing individual student progress and outcome performance.

**Improvements:** To meet the standard, programs must demonstrate their value through aggregations of program data demonstrating alignment with expected program student performance outcomes and changes in the programs based upon these aggregated data.

**Accreditation Recommendation:**

- Meets Standard with Weakness—School Counseling and Learning Development (Instruction and Learning)



**Montana State University-Northern  
Professional Education Unit Focused Accreditation Review  
January 16-18, 2012**

**Narrative Summary Report**

**Number and Name of Standard:** ARM 10.58.705 SCHOOL PRINCIPALS, SUPERINTENDENTS, SUPERVISORS, AND CURRICULUM DIRECTORS

**Validating Statement:** The K-12 Principal Endorsement program was marked “Not Met” as a result of the 2009 Accreditation Review. During the Focused Accreditation Review in January 2012, MSU-Northern provided no evidence that the program is in compliance with ARM 10.58.705. The K-12 Principal Endorsement Program at MSU-Northern is inactive, and therefore, an accreditation recommendation is not applicable.

**Sources of Evidence:** Summary Report from Montana State University – Northern, January 9, 2012; 2009 Narrative Report from On-Site Accreditation Review; Presentation by MSU-N Leadership Team, January 17, 2012

**Assessment Aligned to Standard:** Because the program is suspended and inactive, there were no assessment data to review.

**Evaluation:** In the 2012 MSU-Northern Summary Report, the Unit provides an explanation of a “number of possible options” to reactivate the K-12 principal endorsement program: revise the curriculum and hire qualified faculty; participate in the Montana University System’s graduate school consortium; or to partner with another four year institution to share faculty and course work. To determine the “next step,” the MSU-Northern Professional Education Unit plans to conduct a feasibility study.

The program is inactive. If the MSU-N Professional Education Unit wishes to restore the K-12 Principal Endorsement Program it must begin the Montana University System New Program Proposal at Level 2. Following approval of the MUS process, the Unit must request a new program, using the Board of Public Education process. The requirements for this process are located in ARM 10.58.802 New Programs.

**Accreditation Recommendation**

- Not Applicable

**OUTLYING ISSUE(S):** During the November 2009 Accreditation Review, the team recommended provisional approval of the Standards designated as being "Met with Weakness" and "Not Met." Provisional approval required further action by the Unit at MSU-Northern. The MSU-Northern Provost met with the BPE in May 2010, to describe their plan for and progress on meeting those standards that were designated as "Met with Weakness" and "Not Met."

The exit report of the Focused Accreditation Review is attached.

**RECOMMENDATION(S):**      Action

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

- PRESENTATION:** Recommendation of the Superintendent of Public Instruction to prepare the Notice of Public Hearing pertaining to amendments of Administrative Rules of Montana Chapter 55 Standards of Accreditation
- PRESENTER:** Linda Vrooman Peterson  
Accreditation Division Administrator  
Office of Public Instruction
- OVERVIEW:** The State Superintendent recommends the Board of Public Education approve the preparation of the Notice of Public Hearing pertaining to amendments of Administrative Rules of Montana Title 10, Chapter 55 Standards of Accreditation.
- REQUESTED DECISION(S):** Approve the State Superintendent's recommendation to prepare the Notice of Public Hearing of the amendments of the Chapter 55 Standards of Accreditation.
- OUTLYING ISSUE(S):** None
- RECOMMENDATION(S):** Action

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

- PRESENTATION:** Addendum to 2011-2012 Accreditation Status Recommendations
- PRESENTER:** Teri Wing  
Accreditation Compliance Specialist  
Office of Public Instruction
- OVERVIEW:** This presentation provides to the Board of Public Education (BPE) for consideration an addendum to the 2011-2012 accreditation determinations for all schools as recommended by state Superintendent Denise Juneau. These changes are due to errors identified by the Office of Public Instruction after the accreditation determinations were acted on during the March BPE meeting and the districts were notified of those determinations. The report is attached.
- REQUESTED DECISION(S):** Approve State Superintendent's recommendations.
- OUTLYING ISSUE(S):** None
- RECOMMENDATION(S):** Action

County Name	School Number	School Name	Accreditation Status Change From:	Accreditation Status Change To:	Reason
Gallatin	0484	Pass Creek School	ADVICE	REGULAR	Librarian hired
Gallatin	0479	Springhill Elementary School	ADVICE	REGULAR	Librarian hired

## **EXECUTIVE SUMMARY**

**DATE: MAY 2012**

**PRESENTATION:** Alternative to Standards Requests

**PRESENTER:** Teri Wing  
Accreditation Compliance Specialist  
Office of Public Instruction

**OVERVIEW:** This presentation provides to the Board of Public Education the report of approval of Alternative to Standards requests. The State Superintendent recommends approval of the report as presented. The report is attached.

**REQUESTED DECISION(S):** Action

**OUTLYING ISSUE(S):**

**RECOMMENDATION(S):** Approve the recommendations of state Superintendent Denise Juneau of the Report of Alternative to Standards requests



**Alternative Standard Requests – Recommendations**

**May 2012**

The following 21 alternative to standard requests representing 14 schools have been received and evaluated in accordance with Administrative Rules of Montana (ARM) 10.55.604.

**Approvals**

The following applications have been submitted by small schools using the **Montana Small Schools Alliance (MSSA) model** for this alternative to standard. The necessary letters of agreement with MSSA were provided. This model provides for measurable objectives and corresponding formative assessments. The district has also provided the necessary mission statements, description of the alternative and summative measures to be used.

**Beaverhead County**

Jackson Elementary School District	
Jackson School- Renewal applications	Current enrollment: 15
10.55.709 Library Media	Required: .06 or contract for services
10.55.1801 Library Media Program Delivery Standards	
10.55.710 School Counseling	Required: .04 or contract for services
10.55.1901 School Counseling Program Delivery Standards	

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Wisdom Elementary School District	
Wisdom School- Renewal application	Current enrollment: 18
10.55.709 Library Media	Required: .07 or contract for services
10.55.1801 Library Media Program Delivery Standards	
10.55.710 School Counseling	Required: .05 or contract for services
10.55.1901 School Counseling Program Delivery Standards	

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**Carter County**

Alzada Elementary School District	
Alzada School- Renewal application	Current enrollment: 2
10.55.709 Library Media	Required: Fraction or contract for services
10.55.1801 Library Media Program Delivery Standards	
10.55.710 School Counseling	Required: Fraction or contract for services
10.55.1901 School Counseling Program Delivery Standards	

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**Hill County**

Cottonwood Elementary School District	
Cottonwood School- Initial application	Current enrollment: 19
10.55.709 Library Media	Required: .08 or contract for services
10.55.1801 Library Media Program Delivery Standards	

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**Lake County**

Swan Lake/Salmon Prairie Elementary School District	
Salmon Prairie School- Renewal application	Current enrollment: 3
10.55.710 School Counseling	Required: Fraction or contract for services
10.55.1901 School Counseling Program Delivery Standards	

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**Missoula County**

Potomac Elementary School District  
Potomac School- Initial application  
10.55.710 School Counseling  
10.55.1901 School Counseling Program Delivery Standards

Current enrollment: 98  
Required: .25 or contract for services

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Sunset Elementary School District  
Sunset School- Initial application  
10.55.710 School Counseling  
10.55.1901 School Counseling Program Delivery Standards

Current enrollment: 1  
Required: Fraction or contract for services

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Woodman Elementary School District  
Woodman School- Initial application  
10.55.710 School Counseling  
10.55.1901 School Counseling Program Delivery Standards

Current enrollment: 52  
Required: .13 or contract for services

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**Park County**

Arrowhead Elementary School District  
Arrowhead School- Renewal application  
10.55.709 Library Media  
10.55.1801 Library Media Program Delivery Standards  
10.55.710 School Counseling  
10.55.1901 School Counseling Program Delivery Standards

Current enrollment: 77  
Required: .30 or contract for services  
  
Required: Fraction or contract for services

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Arrowhead Elementary School District  
Arrowhead 7/8- Renewal application  
10.55.709 Library Media  
10.55.1801 Library Media Program Delivery Standards  
10.55.710 School Counseling  
10.55.1901 School Counseling Program Delivery Standards

Current enrollment: 17  
Required: .07 or contract for services  
  
Required: .04 or contract for services

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**Sanders County**

Paradise Elementary School District  
Paradise School- Renewal application  
10.55.709 Library Media  
10.55.1801 Library Media Program Delivery Standards

Current enrollment: 31  
Required: .07 or contract for services

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**OTHER APPLICATIONS FOR ALTERNATIVES TO STANDARDS:**

**Yellowstone County**

Laurel Public School District  
Laurel Middle School- Initial application  
Library Staffing: 1.0 Licensed FTE  
Standard: 10.55.709.3—Library Media Services  
Standard: 10.55.1801- Library Media Program Delivery Standards

Current Enrollment: 570  
Required: 1.5 for schools with 501-1000 students

Laurel Middle School employs a 1.0 FTE certified Library Media Specialist, a half time technology integration specialist, and a halftime para-professional. Having two FTE staff allows the library to be open and available to students from 7:45 A.M. to 4:00 P.M. daily. The para-professional will assist students and teachers in the library, processes materials, and performs the routine daily functions of the library. The library media specialist will supervise the program. She and the technology integration specialist will teach students in all grades the research skills identified

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in content standards 1-4. The library program will be overseen by a collaborative team consisting of the library media specialist, technology integration specialist, two teachers and the principal. This team will meet monthly with staff to identify library services that are needed. This model provides for measurable objectives and corresponding formative assessments. The district has also provided the necessary mission statements, description of the alternative and summative measures to be used.

**The proposed alternatives meet or exceed current standards.  
Recommend approval of the alternative to standard requests.**

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Laurel Public School District

Laurel High School- Initial application

Current Enrollment: 616

Library Staffing: 1.0 Licensed FTE

Required: 1.5 for schools with 501-1000 students

Standard: 10.55.709.3—Library Media Services

Standard: 10.55.1801- Library Media Program Delivery Standards

Laurel High School employs a 1.0 FTE certified Library Media Specialist, a half time technology integration specialist, and a halftime paraprofessional. Having two FTE staff allows the library to be open and available to students from 7:45 A.M. to 4:00 P.M. daily. The paraprofessional will assist students and teachers in the library, processes materials, and performs the routine daily functions of the library. The library media specialist will supervise the program. She and the technology integration specialist will teach students in all grades the research skills identified in content standards 1-4. The library program will be overseen by a collaborative team consisting of the library media specialist, technology integration specialist, two teachers and the principal. This team will meet monthly with staff to identify library services that are needed. This model provides for measurable objectives and corresponding formative assessments. The district has also provided the necessary mission statements, description of the alternative and summative measures to be used.

**The proposed alternatives meet or exceed current standards.  
Recommend approval of the alternative to standard requests.**

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### **Ravalli County**

Corvallis Public School District

Corvallis High School- Initial application

Current Enrollment: 467

Counselor Staffing: 1.0 Licensed FTE

Required: 1.17

Standard: 10.55.710—School Counseling Services

Standard: 10.55.1901- School Counseling Program Delivery Standards

The Corvallis District proposes that the .17 counselor FTE would be more than included in the assignment of an Academic Dean. This .5 FTE Dean will be responsible for academic and career information and guidance for students in Corvallis High School, thus providing more services to students than would be available with a .17 additional counselor. This person is a licensed administrator and will be responsible for academic planning, career planning, college planning, college admissions test preparation, scholarship opportunities for Corvallis High School students. The district has indicated adequate formative and summative assessments to properly evaluate the success of this alternative.

**The proposed alternatives meet or exceed current standards.  
Recommend approval of the alternative to standard requests.**

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Corvallis Public School District

Corvallis High School- Initial application

Standard: 10.55.906—High School credit (1)(a) 225 minutes per week

The Corvallis District proposes taking 40 minutes daily out of the structured class schedule to create a Student Opportunity Session (SOS).

*The Montana Office of Public Instruction provides vision, advocacy, support, and leadership for schools and communities to ensure that all students meet today's challenges and tomorrow's opportunities.*

The Student Opportunity Session (SOS) period will provide 40 minutes daily for students to connect to one teacher for several purposes:

- Work on homework with the assigned SOS teacher's assistance.
- Check out to go to their subject teacher for assistance.
- Study for a test.
- Check out to their subject matter teacher to take a re-test.
- Check out to a title I teacher for assistance.
- Check out to their special education teacher for assistance.
- Stay in their assigned SOS period for activities focusing on responsibility.

Formative and summative assessment will be conducted focusing on GPA, attendance, and MAP testing results. The school will also use and compare school climate surveys completed by students.

This alternative to standard appears to be an innovative use of the variance and a positive means of connecting with students to provide academic support and positive school climate.

**The proposed alternatives meet or exceed current standards.  
Recommend approval of the alternative to standard requests.**

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**Missoula County**

Erin Lipkind, who is the Missoula County Superintendent of Schools, is a licensed Library Media Specialist. Erin will provide library services for the following schools. This will include direct library services once per month and the overall supervision of the library program administered by the classroom teachers.

Sunset Elementary School District

Sunset School- Initial application

10.55.709 Library Media

10.55.1801 Library Media Program Delivery Standards

Current enrollment: 1

Required: Fraction or contract for services

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**The proposed alternatives meet or exceed current standards.  
Recommend approval of the alternative to standard requests.**

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MSDB Committee Meeting Minutes – March 28, 2012

Attendance

Board members: Sharon Carroll, Patty Myers, Bernie Olson,

Board staff: Pete Donovan

School staff: Steve Gettel, Jim Kelly, Kim Schwabe, and Bill Sykes

The meeting was called to order by Chairperson Myers at 4:10 PM

1. Student Enrollment

There has been one referral for evaluation in the past month. The campus enrollment is 57 students with 25 in the school for the blind and 32 in the school for the deaf.

2. Human Resources

There have been no new hires, resignations or terminations in the past month. The collective bargaining agreement with the UFCW was approved on March 15, 2012. Steve Gettel reported there are still a handful of issues being negotiated with the MEA-MFT and then next session is scheduled for April 5<sup>th</sup>.

3. School Improvement

Steve Gettel reported the School received full accreditation through the National Accreditation Council for Blind and Low Vision Services (NAC) in January and the Conference of Educational Administrators of Schools and Programs for the Deaf (CEASD) in March. The administration will review the recommendations and those that are appropriate will be included in the next revision of the strategic plan. Steve will include those revisions in the annual report to the BOPE next July.

The school is participating in a Council of Schools for the Blind (COSB) sponsored congressional advocacy campaign "A Day in the Life of a Child at a Specialized School for the Blind." The school had a photo contest and the winning photo will be displayed at a public relations event in Washington, DC that will promote specialized schools and the Expanded Core Curriculum.

Later in the meeting Steve Gettel commented on the attachment that was sent to the Committee, "MSDB Superintendent Performance and Development Summary" which includes a summary of progress to date on the strategic plan and the goals specific to recruitment and retention of staff and developing a communication plan to address the needs our constituents.

4. Campus Education Program

Kim Schwabe reported that Mrs. Cook's Visually Impaired High School Life Skills class is currently making a quilt that will be donated to the raffle for the Visually Impaired Games in May. Students are learning and practicing basic sewing skills.

Mrs. Blake's elementary VI classrooms have been taking part in a Dr. Seuss/Read Across America unit with special focus on *The Lorax*. They began their unit by reading the story, *Green Eggs and Ham*, making a very nutritious breakfast utilizing the foods mentioned in the title with friends in the D/HH department, and watching the movie with them. Next they read the story, *The Lorax*, in multiple written formats, made their own tactual Truffula trees, Brown Bar-ba-loots, and Swammee Swans to decorate their room and Aspen hallway, and wrote poems about Dr. Seuss. To conclude the unit, students watched the new *Lorax* movie and then compared and contrasted the book and the movie. All in all, the students and the staff had a blast!

Mr. McManus' 8<sup>th</sup> period drama class, with the support of the technology teacher, Mrs. Moog, is making a video of the school's facilities and explaining what each area covers. For example, the

students video-toured the Mustang Center and while doing so explained about the swimming pool, weight rooms, concession area, lobby and more. This video will be posted on our website. When not working on the video, the drama classes are working skits for the upcoming spring program.

Mrs. Moog's Fourth grade class and Ms. Taylor's Third grade class are researching the history of Ellis Island prior to going on a virtual field trip on the 29<sup>th</sup> of March. They are learning about how they prepared the island for the building and why the work was done in the manner it was. They are also learning about immigration to America. The students are fascinated with the information that they are learning about this topic. In addition, this activity is supporting the students' critical thinking skills and how to safely research on the web.

Ms. LeMieux's primary students have been working on float and sink concepts in science class. Students have had fun completing hand-on activities and experiments with objects to determine whether the object will float or sink. They then graph the results with color coding on their worksheets.

Mrs. McDunn's freshman high school class has been working on pressure concepts and enjoyed working on such experiments as how to get a boiled egg through a small opening.

#### 5. Student Services Program

Jim Kelly reported that March has been busy for the students in the residential program. The March 2<sup>nd</sup> – 4<sup>th</sup> travel weekend was uneventful and all students made it safely to and from their homes. Students also traveled home on March 16<sup>th</sup> and returned on March 19<sup>th</sup>. Due to the winter storm, the bus travelling to Billings was postponed one day. This decision was made by MSDB upon the advice from the contractor, Big Sky Bus Lines. The five additional travels seem to be working out okay. We had two of those travels prior to Christmas. The March 2<sup>nd</sup> is an extra travel. From here on out the students have travel, a weekend here (VI enrichment), travel, two weekends here (one being an D/HH enrichment weekend), Easter, two weekends, travel, VI Games, Mother's Day Travel, one free weekend, then graduation, then last day of school.

Cottage students are busy during the week with swimming (Monday's and Thursday's), Expressions of Silence practice (Monday's and Wednesday's), Visually Impaired Performers (Wednesdays) and Cane Club. VI students continue to be involved in the "Hands On Club" and meet every Tuesday after school.

The Deaf and Hard of Hearing Enrichment weekend was held March 9<sup>th</sup>-10<sup>th</sup> with 33 students attending. The focus of this weekend was cooking and foods (and having fun). The outreach and cottage staff worked hard to provide the students with an enjoyable weekend. All the cottage students who are deaf or hard of hearing participated in this event. The Goalball Enrichment Weekend and Braille Focus program was held March 22<sup>nd</sup> through the 24<sup>th</sup>. Twenty-four staff who work in the local districts and are training to be certified instructors of Braille attended the Braille Focus and received two days of mentoring by MSDB outreach staff. The Goal Enrichment weekend was also well attended with 15 students having a great time. All the cottage students with visual impairments participated in this event.

On Sunday, March 25<sup>th</sup> the kids and staff had a pot-luck BBQ (hamburgers and hot dogs), watched movies and socialized in the activity room.

The Expressions of Silence will be performing in Missoula this Friday. Students and staff will depart on Thursday for an early morning classroom presentation at the University of Montana. In the afternoon they will perform at the Music Recital Hall. This presentation is open to the community.

Students will travel home on Thursday, April 5<sup>th</sup> for the Easter/Spring break. The Cottage Student Council is planning a day long outing in May (May 20<sup>th</sup>). This will be a fishing trip to Holter Lake (weather permitting).

6. Outreach Program

Dennis Slonaker's written report noted that Lisa Cannon, our Consulting Audiologist, is part of a training team instructing public health nurses how to do hearing screens as part of their home health visits. It is a new pilot project from the Newborn Hearing Screening Program. The first training occurred in Great Falls and was presented to members of the Cascade County Public Health Dept. This training will eventually be presented to public health nurses all across Montana. Sharon Woods and Pam Boespflug, VI Outreach Consultants, will be presenting at the Annual Southwest Montana Early Childhood Conference in Butte on April 28th. Steve Gettel also reported that after attending the Early Hearing Detection and Intervention conference in St. Louis earlier in the month, the state team, of which Lisa Cannon is a member identified the need to collaborate with Part C on the development of guidelines for educational intervention. Screening program guidelines developed in 2006 do not include guidelines for home-based intervention services and there is a need to move forward on this to ensure a comprehensive and consistent delivery of program services through Part C and MSDB.

7. Buildings and Grounds

Bill Sykes reported Safety Committee met on March 21<sup>st</sup> and Stephanie Grover and Joe Hamilton from the Worker's Compensation Safety Bureau met with the committee to go over the schools' accident history report and provide recommendations. Bill said Stephanie and Joe were impressed with the school's safety manual and procedures. Our main losses occur as a result of slips and falls which is true of other agencies.

8. Budget and Finance

Bill Sykes reported that there are no issues with the budget at this point. Bill and Steve Gettel discussed recent conversations they'd had Nancy Hall, OBPP analyst, regarding possible budget proposals for the executive planning process for the 2015 biennial budget. Steve said the school will work closely with the OBPP on any proposals before they are submitted.

9. MSDB Foundation

Steve Gettel reported that the Foundation Development Committee met on March 21<sup>st</sup> and discussed several approaches to the goal of increasing the corpus by \$2.5m over 5 years. The committee will make a recommendation to the Foundation Board at the May meeting.

10. Public Comment for Non Agenda Items

There was no comment.

11. Action Items

There were no action items considered.

The meeting was adjourned at 4:55 PM

**EXECUTIVE COMMITTEE**

**Patty Myers (Items 25-26)**

**EXECUTIVE SESSION (CLOSED)**

**ITEM 25**

**MSDB SUPERINTENDENT PERFORMANCE  
EVALUATION**

**Patty Myers**

**EXECUTIVE SESSION (CLOSED)**

**ITEM 26**

**BPE EXECUTIVE SECRETARY  
PERFORMANCE EVALUATION**

**Patty Myers**

# **PRELIMINARY AGENDA ITEMS**

**July 11-13th, 2012**

**Helena, MT**

- Strategic Meeting – Review Bylaws & Operational Rules
- CSPAC/BPE Joint Meeting
- Annual CSPAC Report
- MACIE Update
- Annual GED Report
- Special Education Report
- Assessment Update
- Federal Update
- Accreditation Report

\*C = Consent Agenda