

MONTANA BOARD OF PUBLIC EDUCATION



NEWMEMBER ORIENTATION MANUAL

2022

BOARD OF PUBLIC EDUCATION

Handbook Index

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Tab 1

Section I
Board of Public
Education
(BPE)

MONTANA BOARD OF PUBLIC EDUCATION

The Board of Public Education was created by the Montana Constitution of 1972 to exercise general supervision over the elementary and secondary schools of the state. The Board consists of seven members appointed by the Governor and confirmed by the Senate to staggered seven-year terms. By statute the Governor must appoint members to the Board so that not more than four may be from one of the two commission districts and not more than four may be affiliated with the same political party. The Governor, the Superintendent of Public Instruction, and the Commissioner of Higher Education are ex-officio, non-voting members of the Board. In 1978 the Board added a student representative who is elected by the executive committee of the Montana Association of Student Councils to a one-year term. The Board maintains offices in Helena.

The Board is vested with constitutional rule-making authority which is self-executing and independent from any power that is delegated to the Board by the Legislature. The Board of Public Education meets with the Board of Regents two times a year to form the Board of Education with responsibilities for long-range planning of the state's educational system.

In addition to the constitutional mandate to exercise general supervision of the schools, the Board is assigned specific responsibilities by the Montana Legislature. A partial list of duties requires the Board to:

- adopt standards of accreditation for Montana schools and establish the accreditation status of each school;
- effect a uniform system of teacher certification, including the accreditation of the teacher and administrator training programs;
- consider the suspension or revocation of teacher certificates and hear appeals from the denial of teacher certificates;
- administer and order the distribution of state equalization aid;
- adopt policies for the special education of handicapped and gifted and talented students; and
- act as the governing agency for the Montana School for the Deaf and Blind.

BOARD MEMBERS

Updated 01/24/2022

Term Expires

2/1/23	Tammy Lacey Chair tammy.lacey@gmail.com	PO Box 39 Fairfield MT 59436	C 406-590-3096
2/1/24	Anne Keith annekeith50@gmail.com	101 N Chouteau Ave Bozeman MT 59718	H 406-585-5489 C 406-539-9241
2/1/25	Jane Lee Hamman Janeleehamman@aol.com	PO Box 164 Clancy, MT 59634	C 406-431-9395 O 406-933-8203
2/1/26	Madalyn Quinlan Vice Chair madquinlan@bresnan.net	605 9 th AVE Helena, MT 59601	H 406-443-2433 C 406-459-2481
2/1/27	Tim Tharp timtharpmt@gmail.com	PO Box 215 Savage, MT 59262	C 406-788-3168
2/1/28	Susie Hedalen saillake.ds@gmail.com	391 Stagecoach Lane Townsend, MT 59644	C 406-465-3531
2/1/29	Renee Rasmussen Renee.rasmussen.mt@gmail.com	3 Skyline Dr Clancy, MT 59635	C 406-949-3126

STUDENT REPRESENTATIVE

6/1/22	Paige Lepard paigelep@gmail.com	6 Spring View Lane Great Falls, MT 59404
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EX OFFICIO MEMBERS

Greg Gianforte Governor	Room 204, State Capitol PO Box 200801 Helena, MT 59620-0801	O 406-444-3311 F 406-444-5529
Elsie Arntzen State Superintendent Office of Public Instruction	1227 11 th Avenue, 2 nd Floor PO Box 202501 Helena, MT 59620-2501	O 406-444-5658 F 406-444-9299
Clayton Christian Commissioner of Higher Education	2500 Broadway, PO Box 203101 Helena, MT 59620-3101	O 406-444-6570 F 406-444-1469

STAFF

McCall Flynn Executive Director mflynn@mt.gov	PO Box 200601 Helena, MT 59620-0601	O 406-444-0300 F 406-444-0847 C 406-691-0550
Paul Furthmyre, Superintendent Montana School for the Deaf and Blind pfurthmyre@mdsdb.mt.gov	3911 Central Avenue Great Falls, MT 59401	O 1-800-882-6732 F 406-771-6017
Kris Stockton Administrative Specialist kmstockton@mt.gov	PO Box 200601 Helena MT 59620-0601	O 406-444-0302 F 406-444-0847
Julie Balsam Administrative Assistant jbalsam@mt.gov	PO Box 200601 Helena MT 59620-0601	O 406-444-6576 F 406-444-0847

MONTANA BOARD OF PUBLIC EDUCATION

The head of OPI (Office of Public Instruction) is the elected State Superintendent of Public Instruction. To illustrate, the Board of Public Education orders the distribution of the state BASE aid to schools and the Superintendent of Public Instruction distributes the BASE aid. The elected Superintendent of Public Instruction makes accreditation recommendations to the Board of Public Education as part of his/her general supervision responsibilities of K-12 schools.

Local School District Boards of Trustees were created by Article X Section 8 of the Montana Constitution and are vested with the powers of local supervision and control of schools in their respective school districts. In Montana there currently exist 432 separate school districts consisting of 826 schools and a student population of 144,129 K-12 students. The local school boards govern their individual districts within the confines of the Board of Public Education's chapters of the accreditation standards.

The Board of Public Education values its proactive association with the state legislature in its current involvement with the Education and Local Government Interim Committee. Board members are represented on the K-12 Subcommittee. The Board has actively been involved in the past three interim studies regarding school funding. It was a Board position paper on a holistic approach to school governance and funding which caused the drafting of HB 736 of the 53rd Legislative Session establishing the School Renewal Commission. This interim commission proposed changes and new provisions regarding several components of K-12 public education in Montana including revenue available, school district governance, methods of funding, and roles of state and federal governments. It was recommendation #10 of this commission which recommended the benefits of expanding kindergarten services to full-time as a way to improve student learning and achievement and the eventual improvement of graduation rates in Montana.

CERTIFICATION STANDARDS AND PRACTICES ADVISORY COUNCIL

The Certification Standards and Practices Advisory Council (CSPAC) was established by the Montana Legislature in 1987. Its members are appointed by the Board of Public Education. Members serve three-year terms.

Mission Statement

The mission of the Certification Standards and Practices Advisory Council is to study and to make recommendations to the Board of Public Education on certification issues concerning teachers, administrators, and specialists; professional standards and ethical conduct; the status and efficacy of approved teacher education programs in Montana; and policies related to the denial, suspension, and revocation of educator certification and the appeals process.

MACIE

There is the Montana Advisory Council for Indian Education (MACIE) to advise the Board and the Superintendent of Public Instruction on matters related to Indian education. The purpose of the Council is to:

MONTANA BOARD OF PUBLIC EDUCATION

“...provide for more effective and meaningful participation by Indian people in planning, implementation, and administration of relevant educational services and programs under the authority of local school boards.”

The council is composed of representatives of the eleven tribal groups in Montana and other groups working in the interest of Indian people.

CONTACT US

Board of Public Education Staff

- McCall Flynn – Executive Director
mflynn@mt.gov W 444-0300
C 691-0550
- Kris Stockton – Administrative Specialist
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- Julie Balsam - Administrative Assistant
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Board of Public Education Strategic Plan 2021-2022

MISSION STATEMENT:

The Board of Public Education has a mission statement as directed by the Montana Constitution, which states, “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”. The Board of Public Education was established to supervise, serve, maintain, and strengthen Montana's system of free quality public elementary and secondary schools.

STRATEGIC PLAN:

- 1. Exercise the Board’s constitutional and statutory authority to improve Montana’s education system.**
 - Work with legislators, education partners, and other entities to ensure they understand and respect the constitutional authority of the Board of Public Education.

- 2. Promote a safe learning environment.**
 - Work with education partners to help school districts navigate federal and state regulations and funding.
 - Assign the Executive Director and a Board of Public Education representative to participate in the Montana School Safety Advisory Committee meetings.

- 3. Evaluate and adopt the Board’s accreditation standards to ensure they are contemporary and effective to improve quality education for all Montana students.**
 - Maintain the Board’s commitment to rigorous standards and assessments, and support flexibilities within the current frameworks.
 - Collaborate with education partners in support of drafting and implementing state standards, including efforts around licensing, content, transportation, assessment, accreditation, educator preparation programs, and other standards under the Board of Public Education’s purview.

- 4. Foster quality teaching and administration.**
 - Work with legislators and other entities to ensure they understand the roles and responsibilities of the Board of Public Education.
 - Adopt revisions to the Administrative Rules of Montana that are within the Board of Public Education’s authority.
 - Work with partners in K-12 and higher education to coordinate recruitment and retention efforts of teachers, staff, and school leaders.
 - Receive guidance from the Certification Standards and Practices Advisory Council and take action on its recommendations, when appropriate.

5. Support the preparation of all Montana students for employment, post-secondary education, and civic life.

- Work to support and expand pathways to career and life success.
- Collaborate with the Montana Digital Academy to support online instruction for students.
- Plan and prepare for the Board of Education meetings to support P-20 priorities and adopt a unified education budget.
- Receive guidance from the Montana Advisory Council for Indian Education and take action on its recommendations, when appropriate.

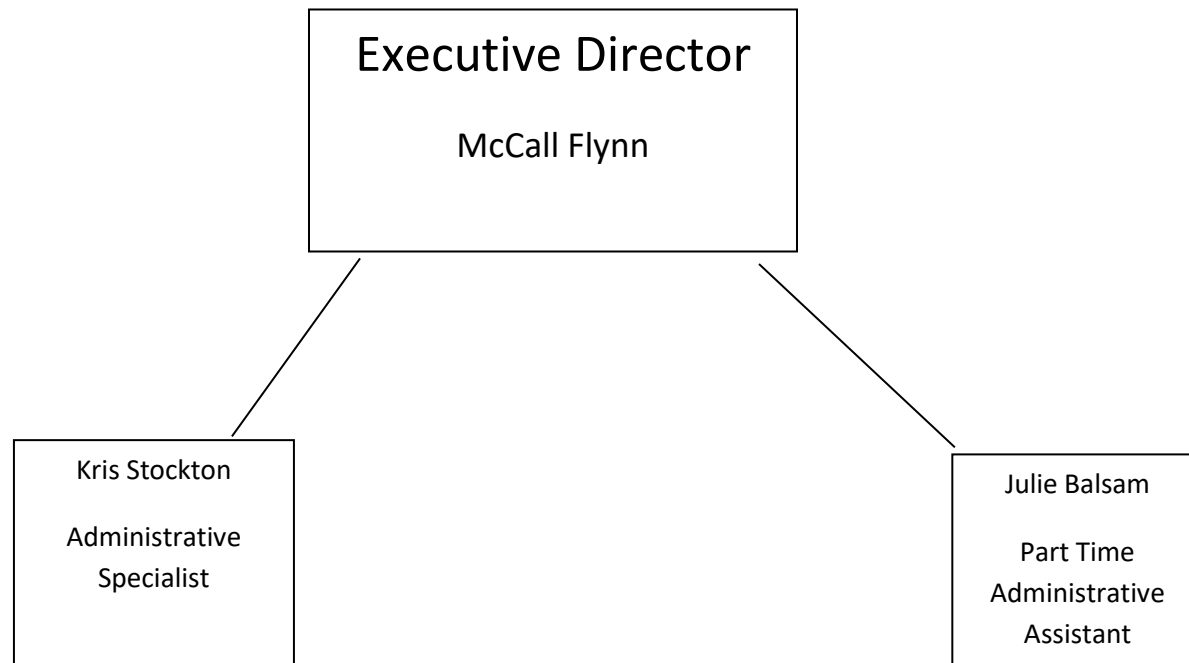
6. Recognize and fulfill the Board's statutory obligation to the Montana School for the Deaf and Blind.

- Hire, support, and evaluate the Superintendent of the Montana School for the Deaf and Blind (MSDB).
- Support and act on personnel items, out of state travel requests, policies, and other items.
- Assign the Executive Director and MSDB liaison to participate in the Montana School for the Deaf and Blind Foundation meetings.

ORGANIZATIONAL CHART

BOARD OF PUBLIC EDUCATION

2022



APPROVED BOARD OF PUBLIC EDUCATION

2022 SCHEDULE

January 13-14, 2022 (virtual?)	Helena, MT
March 10-11, 2022 (w/BOR)	Helena, MT
May 12-13, 2022	Great Falls, MT
July 14-15, 2022 (Joint CSPAC meeting)	Helena, MT
September 15-16, 2022	Helena, MT
November 17-18, 2022 (w/BOR)	Bozeman, MT

BOARD OF PUBLIC EDUCATION

2023 SCHEDULE

January 12-13, 2023 (virtual?)	Helena, MT
March 9-10, 2023 (w/BOR)	Helena, MT
May 11-12, 2023	Great Falls, MT
July 13-14, 2023(Joint CSPAC Meeting)	Helena, MT
September 14-15, 2023	Helena, MT
November 16-17, 2023 (w/BOR)	Missoula, MT

BOARD OF PUBLIC EDUCATION

ANNUAL AGENDA CALENDAR January 2022 – November 2022

(Proposed items from OPI are in italics – C symbolizes Consent Agenda)

January 13-14, 2022 – Conference Call

Exiting Board Member – Last Meeting and Recognition
MSDB Superintendent Contract Extension
Transportation Report
MACIE Update
Assessment Update
Federal Update
Accreditation Report
Teacher Licensure Report
Qualify Transformational Learning & Advanced Opportunity Grant Applications
Critical Quality Educator Shortage Area Report

March 10-11, 2022- Helena

Assessment Update
Federal Update
Draft – CAEP MOU
Accreditation Report
Annual School Food Services Report
Approve Annual Reports Transformational Learning and Advanced Opportunity Grants
MACIE Update
Initial Presentation of MSDB School Calendar

May 12-13, 2022- Great Falls

CSPAC Appointments
Student Representative Last Meeting & Recognition
Approve K-12 Schools Payment Schedule
Assessment Update
Approve CAEP - MOU
Accreditation Report
Variance to Standards Requests & Renewals
Federal Update
MACIE Update
Approve MSDB School Calendar
MCDE Update
Executive Director Performance Evaluation

July 14-16, 2022 - Helena

Strategic Planning Meeting
CSPAC/BPE Joint Meeting
CSPAC Annual Report'
MACIE Update
Approve MSDB/Golden Triangle Co-op
Annual HiSET Report
Annual Special Education Report
Assessment Update
Federal Update

Educator Preparation Program Report
OPI Staffing Report
Accreditation Report

September 15-16, 2022 - Helena

Election of Board Officers
Set Yearly Board Meeting Calendar - C
Set Annual Agenda Calendar – C
BPE Goal Review – C
MACIE Update
Digital Academy Update
Assessment Update
Federal Update
MACIE Renewal (Even Years)
MSDB Superintendent Evaluation - preview

November 17-18, 2022- Bozeman

Committee Appointments – C
MCDE Update
MACIE Annual Report
Assessment Update
Federal Update
Variance to Standards Requests & Renewals
Accreditation Report
Youth Risk Behavior Survey Update (Odd Years)
Annual Renewal Unit Providers List - C
MSDB Superintendent Performance Evaluation & Contract Extension Discussion

Board of Public Education
Committee Assignments
2022-2023

STANDING COMMITTEES

Executive Committee

Tammy Lacey, Chair
Madalyn Quinlan, Vice Chair
McCall Flynn, Executive Director

Accreditation Committee

Mary Heller, Chair
Susie Hedalen, Member
Tammy Lacey, Ex-Officio Member

Licensure Committee

Madalyn Quinlan, Chair
Anne Keith, Member
Tammy Lacey, Ex-Officio Member

MSDB Committee

Mary Heller, Chair and Foundation Board Member
Tammy Lacey, Member

Legislative Committee

Madalyn Quinlan, Chair
Susie Hedalen, Member
Renee Rasmussen, Member
Tammy Lacey, Ex-Officio Member

Assessment Committee

Anne Keith, Chair
Jane Hamman, Member
Tammy Lacey, Ex-Officio Member

Education Interim Committee

Jane Hamman, Chair
Renee Rasmussen, Member
Tammy Lacey, Ex-Officio Member
McCall Flynn, Executive Director

ADVISORY GROUP LIAISONS

CSPAC—Tammy Lacey
MACIE—Susie Hedalen
Montana Digital Academy—Madalyn Quinlan

Tab 2

Board of Public Education's Duties and Rulemaking Authority		
Citation	Section Heading	Duties/Rulemaking Authority
Constitution of Montana -- Article X -- Education and Public Lands		
Section 9.		
Mont. Const. Art. X, sec. 9 ^	Boards of education	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. (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.
Title 2. Government Structure and Administration		
Chapter 15. Executive Branch Officers and Agencies		
2-15-122, MCA	Creation of advisory councils	The board of public education may create advisory councils, which shall serve at their pleasure, without the approval of the governor.
2-15-1507, MCA	Board of public education	
2-15-1508, MCA	Appointments to board of public education and board of regents -- conditions -- vacancy	
2-15-1522, MCA	Certification standards and practices advisory council	The board of public education shall select and appoint the members by June 1. If a vacancy occurs on the council, the board of public education shall appoint a person from the category of membership, as provided in subsection (2), in which the vacancy has occurred to serve the unexpired term.
Chapter 18. State Employee Classification, Compensation, and Benefits		
2-18-103, MCA	Officers and employees excepted	
2-18-701, MCA	Definitions	
Title 5. Legislative Branch		
Chapter 5. Legislative Procedures		
5-5-224, MCA	Education and local government interim committee	
Title 17. State Finance		
Chapter 5. Public Bond Issues		
17-5-202, MCA	Definitions	
Chapter 7. Budgeting and Appropriations		
17-7-162, MCA	Montana school for the deaf and blind exempt from vacancy savings	
Title 19. Public Retirement System		
Chapter 20. Teachers Retirement		
19-20-101, MCA	Definitions	
19-20-302, MCA	Active membership	
Title 20. Education		
Chapter 1. General Provisions		
20-1-101, MCA	Definitions	
20-1-212, MCA	Destruction of records by school officer	
20-1-213, MCA	Transfer of school records	
20-1-303, MCA	Conduct of school on Saturday or Sunday prohibited -- exceptions	
20-1-304, MCA	Pupil-instruction-related day	
Chapter 2. State Boards and Commissions		

20-2-101, MCA	Combined boards as state board -- budget review -- officers -- meetings -- quorum	The board of public education and the board of regents meeting together as the state board of education shall be responsible for long-range planning and for coordinating and evaluating policies and programs for the public educational systems of the state. The state board of education shall review and unify the budget requests of educational entities assigned by law to the board of public education, the board of regents, or the state board of education and shall submit a unified budget request with recommendations to the appropriate state agency.
20-2-111, MCA	Officers of boards -- quorum	The board of public education and the board of regents may each select a presiding officer from among their appointed members
20-2-112, MCA	Quarterly meetings of boards -- called meetings -- notice of meetings	The board of public education and the board of regents shall meet at least quarterly
20-2-113, MCA	Per diem of board members -- expenses	
20-2-114, MCA ^	Adoption of rules -- seal -- record of proceedings	Adopt rules
20-2-121, MCA ^	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.
20-2-122, MCA	Executive secretary to board of public education -- staff	The board of public education may: (1) appoint an executive secretary and employ other persons within legislatively authorized appropriations; (2) prescribe the term, duties, and compensation of its executive secretary; (3) provide office space for its staff to carry out its duties.
20-2-403, MCA	Duties	
Chapter 3. Elected Officials		
20-3-101, MCA	Election and qualifications	
20-3-106, MCA	Supervision of schools -- powers and duties*	
20-3-205, MCA	Powers and duties	
20-3-323, MCA	District policy and record of acts	
20-3-324, MCA	Powers and duties	
Chapter 4. Teachers, Superintendents, and Principals		
20-4-102, MCA	Board of public education policies*	To effect an orderly and uniform system of teacher and specialist certification, the board of public education shall, upon the recommendation of the superintendent of public instruction and in accordance with the provisions of this title, prescribe and adopt policies for the issuance of teacher or specialist certificates. Such policies shall provide for: (1) reasonable training and experience requirements for teacher, specialist, supervisor, and administrative certificates and endorsements thereon as provided by the certification classification in 20-4-106; (2) the renewal of teacher or specialist certificates based on the same conditions prescribed for the initial issuance of certificates; (3) the conduct of hearings on teacher or specialist certification revocation, suspension, or denial; (4) the issuance of emergency authorization to a district to employ a person who is not the holder of a valid teacher certificate as an instructor of pupils; and (5) any other policy, not inconsistent with the law, which is necessary for the proper operation of a system of teacher and specialist certification.
20-4-103, MCA	Issuance of teacher or specialist certificates	

20-4-106, MCA	Classifications of teacher and specialist certificates*	(1) The superintendent of public instruction shall issue teacher certificates and the board of public education shall adopt teacher certification policies on the basis of the following classifications of teacher certificates....
20-4-107, MCA	Outstanding teacher certificates	
20-4-108, MCA	Term of teacher and specialist certificates -- renewal	
20-4-109, MCA	Fees for teacher and specialist certificates	
20-4-110, MCA	Letter of reprimand, suspension, revocation, and denial of certificate*	(1) The board of public education may issue a letter of reprimand or may suspend or revoke the teacher, administrator, or specialist certificate of any person for the following reasons....
20-4-111, MCA	Emergency authorization of employment	
20-4-122, MCA	Designated official for purposes of interstate agreement	
20-4-131, MCA	Definitions	
20-4-132, MCA	Meetings -- assistance	
20-4-133, MCA	Duties of the council	
20-4-301, MCA	Duties of teacher -- nonpayment for failure to comply	
20-4-502, MCA	Definitions	
20-4-503, MCA	Critical quality educator shortages	(1) The board of public education, in consultation with the office of public instruction, shall identify: (a) specific schools that are impacted by critical quality educator shortages; and (b) within the schools identified in subsection (1)(a), the specific quality educator licensure or endorsement areas that are impacted by critical quality educator shortages. (2) The board of public education shall publish an annual report listing the schools and the licensure or endorsement areas identified as impacted by critical quality educator shortages, explaining the reasons that specific schools and licensure or endorsement areas have been identified and providing information regarding any success in retention. (3) Quality educators working at schools identified in subsection (1) are eligible for repayment of all or part of the quality educator's outstanding educational loans existing at the time of application in accordance with the eligibility and award criteria established under this part.
Chapter 5. Pupils		
20-5-102, MCA	Compulsory enrollment and excuses	
Chapter 7. School Instruction and Special Programs		
20-7-101, MCA ^	Standards of accreditation*	Standards of accreditation for all schools must be adopted by the board of public education upon the recommendations of the superintendent of public instruction.
20-7-102, MCA	Accreditation of schools*	(1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of each school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.
20-7-104, MCA	Transparency and public availability of public school performance data -- reporting -- availability for timely use to improve instruction	
20-7-111, MCA ^	Instruction in public schools	The board of public education shall define and specify the basic instructional program for pupils in public schools, and such program shall be set forth in the standards of accreditation. Other instruction may be given when approved by the board of trustees.
20-7-118, MCA	Offsite provision of educational services by school district*	
20-7-131, MCA	Equivalency of completion of secondary education	

20-7-202, MCA	School library required	
20-7-205, MCA	Reporting school library information	
20-7-401, MCA	Definitions	
20-7-402, MCA	Special education to comply with board policies*	
20-7-403, MCA	Duties of superintendent of public instruction	
20-7-414, MCA	Determination of children in need and type of special education needed*	
20-7-431, MCA	Allowable cost schedule for special programs -- superintendent to make rules -- annual accounting*	
20-7-454, MCA	Final approval and filing of full service education cooperative contract	
20-7-475, MCA	Blind persons' literacy rights and education - personnel training	The board of public education shall establish standards to ensure that individuals who provide Braille instruction are appropriately trained and supervised.
20-7-804, MCA	Authority of board of public education	In all cases where school property is utilized, the board of public education shall have authority: (1) to establish minimum qualifications of local recreational directors and instructors; and (2) to prepare or cause to be prepared, published, and distributed adequate and appropriate manuals and other materials as it may deem necessary or suitable to carry on said recreational program and to carry out the provisions of this part.
20-7-903, MCA	Programs to serve gifted and talented children -- compliance with board policy -- funding	
20-7-904, MCA	Review and recommendations of proposals	(1) The policies of the board of public education must assure that program proposals submitted by school districts to the superintendent of public instruction contain: (a) evidence that identification procedures are comprehensive and appropriate; (b) a program description including stated needs and measurable objectives designed to meet those needs; (c) evidence that the activities are appropriate and will serve to achieve the program objectives; and (d) a method to evaluate the effectiveness of the program. (2) School districts may request assistance from the staff of the superintendent in formulating program proposals. (3) The superintendent of public instruction shall supervise and coordinate the programs for gifted and talented children by: (a) recommending to the board of public education the adoption of those policies necessary to establish a planned and coordinated program; and (b) establishing a procedure for review and approval of program proposals.
20-7-1201, MCA	Montana digital academy -- purposes -- governance	teacher appointed by the board of public education; a Montana-licensed school district administrator appointed by the board of public education; a trustee of a Montana school district appointed by the board of public education.
Chapter 8. Montana School for the Deaf and Blind		
20-8-101, MCA	Montana school for deaf and blind -- state-supported special school	Control over the Montana school for the deaf and blind.
20-8-103, MCA	Board of public education rules	The board of public education shall adopt and prescribe rules as the board considers necessary and proper for the maintenance and government of the school, the admission of children in conformity with the provisions of this chapter, and the qualifications and compensation of the superintendent and teaching staff of the school, provided that the superintendent must have a ready and working knowledge of the sign language.
20-8-106, MCA	Duration of attendance at school -- suspension or expulsion -- transfer	
20-8-107, MCA	Admission of nonresident children and advance payment of cost -- Indian children*	The Montana school for the deaf and blind is authorized to negotiate with an out-of-state educational institution to place a student at the school. If a group of out-of-state students attends the Montana school for the deaf and blind, the educational institution of the other state shall pay in advance to the Montana school for the deaf and blind an amount of money for each student determined as a result of a negotiated agreement between the superintendent of the Montana school for the deaf and blind and the out-of-state educational institution. The agreement must be approved by the board of public education.

20-8-111, MCA	Duty of board of public education as to property of school	The board of public education shall, either directly or through a contract with a nonprofit corporation, receive, hold, manage, use, and dispose of real and personal property transferred to the board or to the state of Montana by purchase, gift, devise, or bequest or otherwise acquired and the proceeds, interest, and income of the property for the use and benefit of the school for the deaf and blind. All donations, gifts, devises, or grants vest in the board or its designee, as trustee for the state of Montana, for the use and benefit of the school and its students.
20-8-113, MCA	Duties of superintendent of school for the deaf and blind	
20-8-120, MCA	Communications skills required of certain employees	
20-8-121, MCA	Transportation of students at school	
Chapter 9. Finance		
20-9-161, MCA	Definition of budget amendment for budgeting purposes	
20-9-213, MCA	Duties of trustees	
20-9-311, MCA	Calculation of average number belonging (ANB) -- 3-year averaging*	
20-9-327, MCA	Quality educator payment	
20-9-344, MCA	Duties of board of public education for distribution of BASE aid	(1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education: (a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law; (b) may require reports from the county superintendents, county treasurers, and trustees that it considers necessary; and (c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue. (2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to: (a) submit reports or budgets as required by law or rules adopted by the board of public education; or (b) maintain accredited status because of failure to meet the board of public education's assurance and performance standards. (3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.
20-9-346, MCA	Duties of superintendent of public instruction for state and county equalization aid distribution*	
20-9-376, MCA	Purpose of increased funding beyond inflation	
Chapter 10. Transportation and Food Services		
20-10-101, MCA	Definitions	
20-10-103, MCA	School bus driver qualifications*	
20-10-104, MCA	Penalty for violating law or rules	

20-10-111, MCA	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.
20-10-112, MCA	Duties of superintendent of public instruction*	
20-10-124, MCA	Private party contract for transportation -- individual transportation contract	
20-10-141, MCA	Schedule of maximum reimbursement by mileage rates	
20-10-145, MCA	State transportation reimbursement*	
20-10-146, MCA	County transportation reimbursement	
20-10-201, MCA	Acceptance, expenditure, and administration of federal school food services money	
Chapter 20. School Elections		
20-20-201, MCA	Calling of school election*	
Chapter 26. Student Financial Assistance		
20-26-603, MCA	Definitions	
Title 52. Family Services		
Chapter 5. Corrections		
52-5-106, MCA	Curricula at facilities	
Title 61. Motor Vehicles		
Chapter 9. Vehicle Equipment		
61-9-402, MCA	Audible and visual signals on police, emergency vehicles, and on-scene command vehicles -- immunity	
61-9-502, MCA	Semiannual inspection of school buses	

^ currently in BPE authority memo

*duties of the Superintendent of Public Instruction

COURT CASES
Involving
The Board of Public Education

BOARD OF PUBLIC EDUCATION-v-THOMAS L. JUDGE, GOVERNOR

Decided July 5, 1975 by the Montana Supreme Court

The issue was whether the Board of Public Education or the Board of Education would be responsible for vocational education. The Supreme Court found in a declaratory judgment in the Board of Public Education's favor and said that HB 566 which created a Board of Vocational Education under the Board of Education was unconstitutional.

MICHAEL PERETTI, et al –v- STATE OF MONTANA, THE BOARD OF PUBLIC EDUCATION and its members.

Decided July 19, 1989 by the Montana Supreme Court

This case was begun in 1977 by students in the "Career Pilot Program" at the Missoula Vo-tech, the case centered on the Board's authority to cut programs due to a decrease in the legislative appropriation. The students' alleged loss of the program translated into loss of opportunity and requested the awarding of significant damages. The Fourth Judicial District Court (Missoula) found in their favor, but the Supreme Court in a 5/2 decision reversed the order and found in favor of the State and the Board.

HELENA ELEMENTARY SCHOOL DISTRICT NO. 1 etc., et al –v- the STATE OF MONTANA; etc., et al.

Decided February 1, 1989 by the Montana Supreme Court

Commonly called "The Underfunded Lawsuit", the court found the financing of public schools in Montana to be unconstitutional with respect to student opportunity and taxpayer equity. Of special interest to the Board of Public Education It found that "the Montana School Accreditation Standards are minimum standards upon which quality education must be built". At this time the Court had been asked to retain jurisdiction by the plaintiff schools until July 1, 1991.

THE ASSOCIATED PRESS, et al –v- THE BOARD OF PUBLIC EDUCATION

Decided August 4, 1989 by the First Judicial District Court

Generally referred to as the Open Meeting Lawsuit, the press asked for a summary judgment declaring that subsection of 25-7-602 MCA was unconstitutional. This is the part of the law which allows public bodies to close meetings when discussing litigation strategy. The Board used this section of the law during a conference call and thus became the defendant in the case. The judge found that the constitution takes a very strong stand on the public's right to know and found that section of law unconstitutional.

THE MONTANA BOARD OF PUBLIC EDUCATION et al –v- MONTANA ADMINISTRATIVE CODE COMMITTEE

Decided March 1992 by Judge Sherlock of the Montana First Judicial District Court, Lewis & Clark County.

Generally referred to as the "Sherlock Decision", the adopted rule 10.55.804 stating "schools 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 this 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.” In 1991 the legislature passed HB 116 which repealed Rule 10.55.804 . The Board of Public Education felt it had the authority to promulgate the aforementioned rule pursuant to the Article X, Section 9(3)(a), of the Montana Constitution of 1972. The Board brought a judgment action against HB 116. It was found that HB 116 was invalid and that “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. HB 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.”

Tab 3

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Roles and Responsibilities

ROLES AND RESPONSIBILITIES

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 2021 – Adoption of Rules

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.

Montana Code Annotated 2021 – Powers and Duties

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.

Montana Code Annotated 2021 – Standards of Accreditation

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. The superintendent shall develop recommendations in accordance with subsection (2). The recommendations presented to the board must include an economic impact statement, as described in **2-4-405**, prepared in consultation with the negotiated rulemaking committee under subsection (2).

(2) The accreditation standards recommended by the superintendent of public instruction must be developed through the negotiated rulemaking process under Title 2, chapter 5, part 1. The superintendent may form a negotiated rulemaking committee for accreditation standards to consider multiple proposals. The negotiated rulemaking committee may not exist for longer than 2 years. The committee must represent the diverse circumstances of schools of all sizes across the state and must include representatives from the following groups:

(a) school district trustees;

(b) school administrators;

(c) teachers;

(d) school business officials;

(e) parents; and

(f) taxpayers.

(3) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal, including the economic impact statement required under subsection (1), to the education interim committee for review at least 1 month in advance of a scheduled committee meeting.

(4) Unless the expenditures by school districts required under the proposal are determined by the education interim committee to be insubstantial expenditures that can be readily absorbed into the budgets of existing district programs, 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.

(5) Standards for the retention of school records must be as provided in **20-1-212**.

Montana Code Annotated 2021 – School Bus Standards

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.

Montana Code Annotated 2021 – Montana School for the Deaf and Blind

20-8-101. Montana school for deaf and blind -- state-supported special school. The school for the deaf and blind, located in the city of Great Falls, is known and designated as the Montana school for the deaf and blind and must be conducted as a separate and independent unit and special school of the state of Montana under the general supervision, direction, and control of the board of public education. However, the transfer of that school or any change in the name of the school or in the objects or purposes of the school may not be

considered or construed to impair or work any forfeiture or alteration of any rights, grants, or property made to or acquired by that school or by the state for the use and benefit of that school.

Montana Code Annotated 2021 – Montana School for the Deaf and Blind

20-8-103. Board of public education rules. The board of public education shall adopt and prescribe rules as the board considers necessary and proper for the maintenance and government of the school, the admission of children in conformity with the provisions of this chapter, and the qualifications and compensation of the superintendent and teaching staff of the school, provided that the superintendent must have a ready and working knowledge of the sign language.

**Montana First Judicial District Court
County of Lewis and Clark**

MONTANA BOARD OF PUBLIC EDUCATION,
Petitioner,

Cause No. BDV – 91 – 1072

vs.

MONTANA ADMINISTRATIVE CODE COMMITTEE,
Respondent.

ORDER AND DECISION

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. Reinbold*, 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 a 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

Certification Standards and Practices Advisory Council

Authority

Montana Code Annotated 2019 – Certification Standards and Practices Advisory Council

2-15-1522. Certification standards and practices advisory council. (1) There is a certification standards and practices advisory council allocated to the board of public education.

(2) The council consists of seven members appointed by majority vote of the board of public education.

The membership of the council must include:

(a) three teachers engaged in classroom teaching, including:

(i) one who teaches within kindergarten through grade 8;

(ii) one who teaches within grades 9 through 12; and

(iii) one additional teacher from any category in subsection (2)(a) or (2)(b);

(b) one person employed as a specialist or K-12 specialist;

(c) one faculty member from an approved teacher education program offered by an accredited teacher education institution;

(d) one person employed as an administrator, with the certification required in **20-4-106(1)(c)**; and

(e) one school district trustee.

(3) The board of public education shall select and appoint the members by June 1. If a vacancy occurs on the council, the board of public education shall appoint a person from the category of membership, as provided in subsection (2), in which the vacancy has occurred to serve the unexpired term.

(4) Members shall serve staggered 3-year terms and must be appointed so that no more than three appointments expire in any 1 year.

Montana Code Annotated 2019 – Fees for Teacher and Specialist Certificates

20-4-109. Fees for teacher and specialist certificates. (1) A person applying for the issuance or renewal of a teacher or specialist certificate shall pay a fee not to exceed \$6 for each school fiscal year that the certificate is valid. In addition to this fee, a person who has never held any class of Montana teacher or specialist certificate or for whom an emergency authorization of employment has never been issued shall pay a filing fee of \$6. The fees must be paid to the superintendent of public instruction, who shall deposit the fees with the state treasurer to the credit of the state special revenue fund account, created in subsection (2), to be used in the following manner:

(a) \$4 for expenses of the certification standards and practices advisory council created in **2-15-1522**; (b) \$2 to the board of public education and the certification standards and practices advisory council for activities in support of the constitutional and statutory duties of the board of public education and the certification standards and practices advisory council.

(2) There is an account in the state special revenue fund. Money from fees for teacher or specialist certificates required in subsection (1) must be deposited in the account.

Montana Code Annotated 2019 – Duties of the Council

20-4-133. Duties of the council. (1) The council shall study and make recommendations to the board of public education in the following areas:

(a) teacher certification standards, including but not limited to precertification training and education requirements and certification renewal requirements and procedures;

(b) administrator certification standards, including but not limited to precertification training and education requirements and certification renewal requirements and procedures;

(c) specialist certification standards, including but not limited to precertification training and education requirements and certification renewal requirements and procedures;

(d) feasibility of establishing standards of professional practices and ethical conduct;

(e) the status and efficacy of approved teacher education programs in Montana; and

(f) policies related to the denial, suspension, and revocation of teacher, administrator, and specialist certification and the appeals process. For the purpose of preparing recommendations in this area, the council is authorized to review the individual cases and files that have been submitted to the board of public education.

(2) The council shall submit a written report annually to the board of public education with its recommendations for the above areas. The council may submit recommendations to the board of public education at other times that the council considers appropriate.

(3) The board of public education shall:

(a) at a regularly scheduled meeting, consider any recommendations and reports of the council; and (b) approve, disapprove, or modify each recommendation of the council by majority vote of the board.

Tab 4

**STATE OF MONTANA
BOARD OF PUBLIC EDUCATION**

BYLAWS

Article I. Name

The legal name of the Board is the Board of Public Education.

Article II. Objective

The objective of the Board is to carry out its constitutional and statutory responsibility to exercise general supervision, in cooperation with the Superintendent of Public Instruction, over the public school system and other such public educational institutions as may be assigned by law.

Article III. Membership

The Board consists of seven members appointed by the Governor and confirmed by the Senate. Not more than four may be from each of the two commission districts per MCA 5-1-102 (2) (a) (b), and not more than four may be affiliated with the same political party. The Governor, Superintendent of Public Instruction and Commissioner of Higher Education are ex officio, non-voting members of the Board. There is also a non-voting student member. The terms of members appointed to the Board shall be seven years. When a vacancy occurs, the Governor shall appoint a member for the remainder of the term of the incumbent. Members appointed to the Board, before discharging their duties, shall take and subscribe to the constitutional oath of office.

Article IV. Officers

The officers of the Board shall consist of a Chairperson and Vice Chairperson. The Chairperson and Vice Chairperson shall be elected among the appointed membership for the period of one year; annual reelection is permissible. Election of the Chairperson and Vice Chairperson shall be conducted by voice vote. The Chairperson and Vice Chairperson elect shall assume their respective office upon adjournment of the meeting at which they were elected. If the office of the Chairperson or Vice Chairperson is vacated prior to the expiration of the term, the Board will hold an election to fill the vacated office; the newly elected officer will serve for the remainder of the unexpired term and assume the gavel immediately. The duties of the Chairperson shall include presiding at meetings, participation in the construction of meeting agendas and appointing all committees. The Chairperson shall vote on all matters. In the absence of the Chairperson, the Vice Chairperson shall preside and shall perform such duties as are prescribed for the Chairperson.

Article V. Executive Director

The Board shall appoint, prescribe the term and duties, and establish the salary of the Executive Director. The Executive Director shall serve as administrator to the Board and also as liaison between the Board and the Superintendent of Public Instruction, the Commissioner of Higher Education, the Legislature, and the Governor's office.

Article VI. Meetings

According to law, the Board shall meet at least quarterly. Special meetings may be called by the Governor, the chairperson of the Board, the Executive Director, or a request in writing of four regular appointed members. When necessary, the Board may hold meetings for resolution of specific agenda items either by a meeting in person, by conference call or by a combination of both. In the case of a special meeting, the Executive Director shall notify each regular and ex officio member either by e-mail, mail, or by telephone sufficiently in advance of the meeting to allow all Board members to travel to the meeting site from their principal Montana residence.

In case of a conference call, twenty-four hours prior to the meeting shall be deemed adequate notice.

The Board of Public Education and the Board of Regents shall meet at least twice yearly as the State Board of Education per MCA 20-2-101.

Article VII. Quorum

A majority of the appointed members shall constitute a quorum for the transaction of business.

Article VIII. Committees

Standing committees shall be as follows:

1. An Executive Committee: composed of the Chairperson, Vice Chairperson and the Executive Director;
2. An Accreditation Committee;
3. A Licensure Committee;
4. A School for the Deaf and Blind Committee;
5. A Legislative Committee.
6. An Assessment Committee.

7. An Education and Local Government Committee.

Special committees may be appointed by the Chairperson of the Board as the Board shall deem necessary to carry out the responsibilities of the Board.

Duties of the committees shall be to review, report on, and make recommendations concerning any item referred to them and to alert the Board Chairperson and Executive Director on any matters which should be placed on the agenda for Board discussion action. The Chairperson and the Executive Director shall serve as ex officio, non-voting members of all committees.

The Board shall establish a School for the Deaf and Blind Committee. The committee is responsible for the general supervision and control over the school, subject to the powers of the Board set forth by this by-law. The committee shall meet on a regular basis, not less than six times annually. Meetings may be in person at the school, or via conference call. The Chairperson of the committee shall report on the activities of the committee to the full Board of Public Education at each regular Board meeting. The Board retains the power to overrule or amend any decision of the committee by majority vote of the Board at a duly convened Board meeting. Any member of the Board may by motion bring before the Board any matter on which the committee has acted.

Members of the MSDB Foundation Board are appointed by the MSDB Foundation Board of Directors.

Article IX. Sessions

All committee meetings, telephone conference calls, and regular sessions of the Board shall be open to the public. The Chairperson may close the meeting to the public if he or she determines:

- a. That the demand of individual privacy clearly exceeds the merits of public disclosure, or
- b. That an open meeting would have a detrimental effect on the bargaining or the litigating position of the Board.

This action will be taken by a decision of the Chairperson or a vote of the Board. The Chairperson shall read for the minutes the reason for the closing, or the minutes will show that the person in question requested a closed session. A record will be made of business conducted during a closed session and will be kept in a sealed file subject to opening only by a court order.

Telephone, video conference action, or a combination of the two, providing a quorum is participating in the call, shall be legitimate for transaction of business necessary in between meetings. The minutes of all telephone conference meetings shall be approved at the next regular meeting of the Board.

Article X. Order of Business

The regular order of business shall be as follows:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Statement of Public Participation
5. Welcome Visitors
6. Items Pulled from Consent Agenda
7. Consent Agenda Adoption
8. Agenda Adoption
9. Agenda
10. Date and Place of Next Meeting
11. Adjournment

Article XI. Communications

All official communications should come to the attention of the Board through the Executive Director of the Board.

Article XII. Parliamentary Procedure

The current edition of *Robert's Rules of Order* shall prevail on questions of parliamentary procedure.

Article XIII. Amendments

These bylaws may be added to or amended by a majority vote at any meeting of the Board of Public Education provided that a quorum is present and provided that the proposed amendment is sent in writing to members of the Board of Public Education at least seven days in advance.

Article XIV. Professional Development

The Board of Public Education offers professional development opportunities for Board members whenever possible. Board members may attend at least one professional development conference each year, when funding is available. All requests must be submitted to the Executive Director at least one month prior to the conference. Board members should submit the request using the Request and Justification for Travel Form. All out of state travel and travel that exceeds \$1,000 must be approved by the Executive Committee prior to participation.

[Request and Justification for Travel Form \(mt.gov\)](#)

Tab 5

Reimbursement Information

This is a handy reminder of what items need to be included in this packet. If all the information is included in your folder at the end of the meeting, there shouldn't be any delays in your reimbursement.

- **Travel Expense Voucher**—You **NEED** to sign and date this form.
- **Travel Detail Form**—Please fill out **everything** on this form.
- **Motel and/or Airline Receipt**—Reimbursement **cannot** be made without the receipt in our office.

Thanks so much!

**MONTANA BOARD OF PUBLIC EDUCATION
TRAVEL DETAILS**

NAME _____

DATE _____ FROM _____ TO _____

DEPARTING* _____ TIME ARRIVING* _____

MODE OF TRAVEL _____

MILEAGE TRAVELED _____

DATE _____ FROM _____ TO _____

TIME DEPARTING* _____ TIME ARRIVING* _____

MODE OF TRAVEL _____

MILEAGE TRAVELED _____

OTHER DETAILS PERTINENT TO REIMBURSEMENT:

***APPROXIMATE TIME**

1. Please submit this form along with your Motel/Hotel receipt and signed travel vouchers to the Council secretary before you leave.
2. If you are submitting your travel claim separately or have done travel other than the Board meetings, please be sure to submit your claim within a 10-day time period.
3. If you are traveling and will complete your travel before June 30th of any year, you must have the travel claim turned in before June 30th.
4. Any travel performed before June 30th and not submitted before July 1st CANNOT BE REIMBURSED DUE TO FISCAL YEAR ENDING.
5. If you have any questions, please call the Board Secretary at 444-6576.

TRAVEL GUIDE

Meals:

1. Must have traveled for more than 3 continuous hours and be a distance of at least 15 miles from headquarters or home, whichever is closer. (ARM 2.4.126)
2. A maximum of 2 meals during the travel shift. A travel shift is defined as that period of time beginning 1 hour before or terminated more than 1 hour after normally assigned work shift. (ARM 2.4.127)
3. Time ranges – Must have traveled for more than 3 continuous hours within one of the following time ranges (ARM 2.4.128):

Travel Time:

In-State

Out-of-State

❖ Three hours or less

None

None

❖ Greater than three hours and at least three hours within the ranges below:

Morning (12:01 a.m. – 10:00 a.m.)

\$7.50

\$13.00

Midday (10:01 a.m. – 3:00 p.m.)

\$8.50

\$15.00

Evening (3:01 p.m. – 12:00 midnight)

\$14.50

\$26.00

Total for the day:

\$30.50

\$54.00

- ❖ Only 1 meal per day when travel is performed solely within the confines of a travel shift. (ARM 2.4.130)
- ❖ Two meals per 24-hour calendar day when departing within the travel shift but returning outside the limits or departing prior to travel shift and returning during travel shift. (ARM 2.4.130)

Mileage:

The reimbursement rate for mileage driven in connection with State business is 58.5 cents per mile. To claim reimbursement at this rate the employee must qualify according to the Administrative Rules of Montana (A.R.M.) Section 2.4.114.

Tab 6

Section II
Montana School for
the Deaf and Blind
(Foundation)

MSDB Foundation

Alone we can do so little; together we can do so much.

- Helen Keller

The MSDB Foundation provides Montana's deaf and blind children with opportunities for academic and social development similar to those of other children, in order to better prepare them for independent lives.

With the help of many generous donors, the Foundation has funded a large technology program that brought the School into the 21st century, an updated and automated library with an expanded collection, a playground accessible for children with vision or hearing loss, and many programs that directly benefit MSDB students.

The MSDB Foundation provides ongoing support for:

- job training and career preparation
- assistive technology
- outreach services for students in their home communities
- capital improvements on campus

Each year, the Foundation supports a wide range of academic and extracurricular activities that improve the students' self confidence, quality of life, and education. These include:

- MSDB's Academic Bowl team
- Visually Impaired Games
- Summer camps for kids from across the state
- Family Learning Weekends
- Academic achievement awards
- Field trips
- Holiday parties, proms, and a yearbook
- Expressions of Silence – a performing group of students who use sign language choreographed to recorded music to “sing” songs for audiences at various events.

Board of Directors

Officers

Shawn Tulloch – President

Bozeman Program Manager – Deaf Services, VR
Member since 2014 - Term expires 2023

Mark Willmarth – Vice President

Great Falls - Vision West
Member since 2017 - Term expires 2022

Laura Walker, Secretary/Treasurer

Great Falls
Attorney at Jardine, Stephenson, Blewett & Weaver, P.C.
Member since 2017 - 2022

Board Members

Bonnie DeNoma, Great Falls

MSDB Foundation, Retired
Member years 2020 - 2022

Cathy Copeland, Billings

ASL Interpreter
Member years 2020 - 2022

Casey Schreiner, Great Falls

Director of the Montana State Workforce
Innovation Board
Three Term State Representative
Member years 2017

DeeDee Franzen, Glasgow

Parent of Former VI Student
Member years 2020 - 2022

Doug Little, Great Falls

Retired Teacher
Member years 2016 - 2021

Gary McManus, Great Falls

MSDB Teacher, Retired
Member years 2017 - 2022

Foundation Contact

D. J. Lott

Executive Assistant
MSDB Foundation Office

Mark Willmarth, Great Falls

Training & Development Coordinator at City of Great Falls
Co-owner of Vision West Inc.
Member years 2017 - 2022

Rick Thompson, Glasgow

Dept. of Public Health & Human Services, Retired
Member years 2017 – 2022

Jim Kelly, Great Falls

MSDB Student Life Director
Member years 2017 – 2022

Scott Patera, Ex-Officio

Great Falls
Northwestern Energy, Retired
Member since 1992
Term expires 2021

Travis Stevenson, Great Falls

Co-owner OverHere Consulting
Members years 2017 - 2022

Hollis Fudge, Great Falls

Network and System Administration
Member years 2017 - 2022

MSDB Contact

Paul Furthmyre

MSDB Interim Superintendent
Since March 2020

copy

**AGREEMENT
BETWEEN THE
MONTANA BOARD OF PUBLIC EDUCATION
AND THE
MONTANA SCHOOL FOR THE DEAF AND THE BLIND FOUNDATION, INC.
SEPTEMBER 15, 2014**

This agreement (“Agreement”) is entered into by the Montana Board of Public Education (“Board”) and the Montana School for the Deaf and the Blind Foundation, Inc. (“Foundation”), a non-profit corporation organized under the laws of the State of Montana.

RECITALS

WHEREAS, the Montana School for the Deaf and the Blind (“School”) is an independent institution under the general supervision, direction and control of the Board of Public Education (“Board”) as described in Mont. Code Ann. 20-8-101; and

WHEREAS, the Montana School for the Deaf and the Blind Foundation, Inc. (“Foundation”) is a private, nonprofit corporation organized for the purpose of benefiting children and youths who are deaf, hard of hearing, blind, visually impaired and deaf blind and who are, or have been, students of the School for the Deaf and the Blind; and

WHEREAS, the Foundation is an independent corporation whose relationship to the Board and the School is described in this Agreement, the Articles of Incorporation of the Foundation, the By-laws of the Foundation, and Rules 10.59.101 through 104, Administrative Rules of Montana; and

WHEREAS, pursuant to Mont. Code Ann. 20-8-111, the Board has the authority, through a contract with a nonprofit corporation, to designate to said nonprofit corporation the power to receive, hold, manage, use, and dispose of real and personal property

transferred to the Board or to the State of Montana by purchase, gift, devise, or bequest or otherwise acquired and the proceeds, interest, and income of the property for the use and benefit of the School; and

WHEREAS, the Board and the Foundation wish to enter into this Agreement in order to make the Foundation its designee as described in Mont. Code Ann. 20-8-111 and in order to establish the relative duties and responsibilities of the parties.

NOW THEREFORE, based upon the above recitals and the mutual agreements contained in this Agreement, the parties agree as follows:

I. Designation of Foundation.

Pursuant to Mont. Code Ann. 20-8-111, the Board hereby engages the Foundation to render, and the Foundation agrees to render to the Board, the receipt holding, management, use and disposal of all real and personal property transferred to the Board or to the State of Montana by purchase, gift, devise, bequest or otherwise, and the proceeds, interest, and income thereof for the use and benefit of the students and programs of the School.

II. Articles of Incorporation.

The Foundation agrees that it shall maintain articles of incorporation which include the following provisions:

A. The Superintendent of the School shall by virtue of his or her office be one of the members of the Foundation's Board of Directors until his or her successor is duly appointed.

B. A designated member of the Foundation Board will present a quarterly report to the Board of Public Education either by mail or in person that would include a budget summary and minutes of meetings held.

III. Foundation Bylaws.

The Foundation agrees that it shall maintain bylaws which without limitation cover selection of officers, meetings, compensation for services and amendment procedures.

IV. Foundation Duties and Responsibilities.

A. The Foundation shall receive, hold, manage, use and dispose of real and personal property made or transferred to the Board or to the State of Montana by purchase, gift, devise, bequest or otherwise acquired, and the proceeds, interest and income for the use and benefit of the students and former students of the School and other students served by the School.

B. In fulfilling its responsibilities under this Agreement and Mont. Code Ann. 20-8-111, the Foundation agrees that it will:

1. Comply with applicable state and federal law;
2. Maintain financial and accounting records in accordance with generally accepted accounting principles, have an audit performed by a certified public accountant at least once every two years, and provide the Board with a copy of the most recently audited financial statement;
3. Provide the legislative auditor access to records as may be necessary to comply with the requirements of Mont. Code Ann. 18-1-118(2), except that the financial

records of private donors are confidential and shall not be released or accessed by the public unless required by law;

4. Establish and maintain a written policy covering the acceptance, management, disposal or expenditure of income, proceeds, interest and property managed by the Foundation pursuant to this Agreement.

V. Relationship Between Foundation and Board.

A The Board recognizes that the Foundation is a private, nonprofit organization independent of the Board;

B. The Board agrees to encourage and maintain the independence of the Foundation, while fostering a cooperative relationship between the Board and the Foundation;

C. The Foundation agrees to cooperate with the Board in fulfilling the Foundation's purposes as defined in its articles of incorporation and in complying with its responsibilities under this Agreement.

VI. Liability Exposure.

The parties agree that the liability of the Board, its officials and employees, is controlled and limited by the provisions of title 2, chap. 9, Mont. Code Ann. Any provisions of this Agreement shall be controlled, limited, and otherwise modified to limit any liability of the State of Montana and the Board to that set forth in title 2, chap. 9, Mont. Code Ann.

VII. Indemnification.

Each party agrees to be responsible and assume liability for its own wrongful or

negligent acts or omissions, or those of its officers, agents or employees, to the full extent required by law. Each party agrees to maintain reasonable coverage for such liabilities either through commercial insurance or a reasonable self-insurance mechanism, and the terms of such insurance coverage or self-insurance mechanism shall be provided to the other party upon request.

VIII. Term of Agreement; Entire Agreement.

This Agreement shall begin on the date of its execution by both parties and shall continue until terminated by either party as provided in this Agreement or until superseded by a subsequent agreement between the parties. This Agreement shall be considered the sole and entire Agreement between the parties and shall supersede and replace all pre-existing agreements between the parties.

IX. Termination.

This Agreement may be terminated at any time by the mutual written consent of the parties or upon sixty (60) days written notice by one party to the other party.

X. Dissolution.

If the Foundation's corporate structure is dissolved, the board of directors of the Foundation shall dispose of all the assets of the Foundation in accordance with the laws of the State of Montana and the terms of its articles of incorporation and by-laws. Any assets not so disposed of shall, to the extent allowed by law, be transferred to the Board.

XI. Amendments.

This Agreement may be modified by written amendments signed by authorized representatives of both parties.

XII. Disputes and Venue.

This Agreement is governed by the laws of the State of Montana. The parties agree that any litigation concerning this Agreement must be brought in the First Judicial District Court in and for the County of Lewis and Clark, State of Montana. Each party shall pay its own costs and attorney fees.

The following persons, being duly authorized to sign this Agreement and bind the above-named parties, do hereby execute this Agreement on the date shown below.

MONTANA SCHOOL FOR THE
DEAF AND THE BLIND FOUNDATION, INC.

By: John Masgrove
Title: President
Date: Oct 29, 2014

BOARD OF PUBLIC EDUCATION

By: Sharon Carroll
Title: Chair
Date: November 13, 2014

Tab 7

**Montana School
for the Deaf and
Blind
(MSDB)**

A Dedicated Team of Experts

MSDB's professional team of teachers and specialists has been highly trained to meet the specific educational needs of students with vision or hearing loss. The majority of the School's teachers have advanced degrees in the education of the deaf or the education of the blind, and their expertise is matched by their passion for their work.

Working in collaboration with the experienced and caring teachers, outreach consultants, and interpreters are two audiologists, a speech pathologist, communication technician, orientation and mobility specialist, occupational therapist, physical therapist, guidance counselor, behavior specialist, and a school psychologist. The residential cottage attendants are trained and certified under the Residential Child and Youth Care Professional Program.

This dedicated staff of experts is committed to providing the best educational experiences to their students. The staff is led by an administrative team consisting of a Superintendent, Principal, Dean of Students, and Business Manager. The education departments are led by a Supervising Teacher of the Deaf and a Supervising Teacher of the Blind.

Superintendent

Paul Furthmyre

Dean of Students

Jim Kelly

Supervising Teacher of the Deaf and Hard of Hearing

Julie-Dee Alt

Supervising Teacher of the Blind and Visually Impaired

Carol Clayton-Bye

School Psychologist

Chris Gutschenritter

Behavior Specialist

Yvette Smail

Orientation & Mobility Specialist

Geri Darko

Occupational Therapist

Stephanie Annis

Principal

Paul Furthmyre

Business Manager

Donna Schmidt

Guidance Counselor

Jennifer Briggs

Audiologist

Kathy Johnson

Speech Pathologist

Sherri Widhalm

Physical Therapist

Laurie McRae

Tab 8

Section III
Certification
Standards and
Practices Advisory
Council
(CSPAC)

COUNCIL MEMBERS
Term Expires

Updated 10/28/2021

6/1/22	Dr. Rob Watson Administrator rwatson@mcps.k12.mt.us	5034 Victor Ct Missoula, MT 59803	C 406-570-4135 W 406-728-2400 x1023
6/1/23	Teresa Marchant Vice Chair K-12 Specialist mrsMarchant@yahoo.com	1700 River View Dr Billings, MT 59105	C 406-697-5252
6/1/23	Dr. Trent Atkins Post-Secondary Trent.Atkins@umontana.edu	College of Education 32 Campus Dr Missoula, MT 59871	H 406-821-2183 W 406-243-4978
6/1/23	Barbara Brown Teacher K-8 bbrown@loloschools.org bib1267@msn.com	5135 Cattle Dr Missoula, MT 59808	H 406-531-6654 W 406-273-6686
6/1/24	Dr. Kate Eisele Teacher 9-12 keisele@bssd72.org	356 Buffalo Drive West Yellowstone, MT 59758	W 406-995-4281
6/1/24	Kelly Elder Chair Teacher K-8 kelder@helenaschools.org	620 N Davis Helena, MT 59601	W 406-324-2799 C 406-461-1995 F 406-324-2801
6/1/24	Ann Wake Trustee annioakley619@gmail.com	12043 Pleasant Meadows Lolo, MT 59847	H 406-214-1390 C 406-214-1390

STAFF

McCall Flynn Executive Director mflynn@mt.gov	PO Box 200601 Helena, MT 59620-0601	O 406-444-0300 F 406-444-0847 C 406-691-0550
Kris Stockton Administrative Specialist kmstockton@mt.gov	PO Box 200601 Helena MT 59620-0601	O 406-444-0302 F 406-444-0847
Julie Balsam Administrative Assistant jbalsam@mt.gov	PO Box 200601 Helena MT 59620-0601	O 406-444-6576 F 406-444-0847

2021-2022 CSPAC Meeting Calendar

October 2021	Joint CSPAC/COD	TBD
February 9, 2022		Helena
April 20, 2022		Helena
July 13, 2022	(Joint BPE)	Helena

CERTIFICATION STANDARDS AND PRACTICES ADVISORY COUNCIL MISSION STATEMENT

The mission of the Certification Standards and Practices Advisory Council is to study and make recommendations to the Board of Public Education on certification issues concerning teachers, administrators, and specialists; professional standards and ethical conduct; the status and efficacy of approved teacher education programs in Montana; and policies related to the denial, suspension and revocation of educator certification and the appeals process.

The Certification Standards and Practices Advisory Council will submit a report to the Board of Public Education with recommendations for the above areas at least once annually.

Professional Educators of Montana Code of Ethics

Professional educators recognize and accept their responsibility to create learning environments to help all students reach their full potential. They understand the trust and confidence placed in them by students, families, colleagues, and the community. To achieve their professional purpose, educators strive to maintain the highest ethical standards. The Professional Educators of Montana Code of Ethics sets out these fundamental principles which guide their behavior.

Principle I. Commitment to Students and Families. The ethical educator:

- A. Makes the well-being of students the foundation of all decisions and actions.
- B. Promotes a spirit of inquiry, creativity, and high expectations.
- C. Assures just and equitable treatment of every student.
- D. Protects students when their learning or well-being is threatened by the unsafe, incompetent, unethical or illegal practice of any person.
- E. Keeps information confidential that has been obtained in the course of professional service, unless disclosure serves a compelling purpose in the best interest of students, or is required by law.
- F. Respects the roles, responsibilities and rights, of students, parents and guardians.
- G. Maintains appropriate educator-student relationship boundaries in all respects, including speech, print, and digital communications.

Principle II. Commitment to the Profession. The ethical educator:

- A. Fulfills professional obligations with diligence and integrity.
- B. Demonstrates continued professional growth, collaboration and accountability.
- C. Respects the roles, responsibilities, and rights of colleagues, support personnel, and supervisors.
- D. Contributes to the development of the profession's body of knowledge.
- E. Manages information, including data, with honesty.
- F. Teaches without distortion, bias, or prejudice.
- G. Represents professional qualifications accurately.

Principle III. Commitment to the Community. The ethical educator:

- A. Models the principles of citizenship in a democratic society.
- B. Understands and respects diversity.
- C. Protects the civil and human rights of students and colleagues.
- D. Assumes responsibility for personal actions.
- E. Demonstrates good stewardship of public resources.
- F. Exemplifies a positive, active role in school-community relations.
- G. Adheres to the terms of contracts, district policies and procedures, and relevant statutes and regulations.

Adopted by the Certification Standards and Practices Advisory Council July 13, 2016

Professional Educators of Montana Code of Ethics

Note: Per the Board of Public Education action on March 10, 2022, the language in the Professional Educators of Montana Code of Ethics, adopted by the Certification Standards and Practices Advisory Council on February 9, 2022, has no effect unless and until the revisions are presented to and approved by the Board of Public Education.

Professional educators recognize and accept their responsibility to create learning environments to help all students reach their full potential. They understand the trust and confidence placed in them by students, families, colleagues, and the community. To achieve their professional purpose, educators strive to maintain the highest ethical standards. The Professional Educators of Montana Code of Ethics sets out these fundamental principles which guide their behavior.

Principle I. Commitment to Students and Families. The ethical educator:

- A. Makes the well-being of students the foundation of all decisions and actions.
- B. Promotes a spirit of inquiry, creativity, and high expectations.
- C. Assures just and equitable treatment of every student.
- D. Protects students when their learning or well-being is threatened by the unsafe, incompetent, unethical, or illegal practice of any person.
- E. Keeps information confidential that has been obtained in the course of professional service, unless disclosure serves a compelling purpose in the best interest of students, or is required by law.
- F. Respects the roles, responsibilities, and rights of students, parents, and guardians.
- G. Maintains appropriate educator-student relationship boundaries in all respects, including speech, print, and digital communications.

Principle II. Commitment to the Profession. The ethical educator:

- A. Fulfills professional obligations with diligence and integrity.
- B. Demonstrates continued professional growth, collaboration, and accountability.
- C. Respects the roles, responsibilities, and rights of colleagues, support personnel, and supervisors.
- D. Contributes to the development of the profession's body of knowledge.
- E. Manages information, including student data and assessments, with integrity.
- F. Teaches without distortion, bias, or prejudice.
- G. Represents professional qualifications accurately.

Principle III. Commitment to the Community. The ethical educator:

- A. Models the principles of citizenship in a democratic society.
- B. Demonstrates an understanding of educational equity and inclusion, and respects human diversity.
- C. Protects the civil and human rights of students and colleagues.
- D. Assumes responsibility for personal actions.
- E. Demonstrates good stewardship of public resources.
- F. Exemplifies a positive, active role in school-community relations.
- G. Adheres to the terms of contracts, district policies and procedures, and relevant statutes and regulations.
- H. Uses social media and digital communications responsibly and professionally.

Approved by the Certification Standards and Practices Advisory Council February 9, 2022



AN ACT TO CREATE A CERTIFICATION STANDARDS AND PRACTICES ADVISORY COUNCIL ALLOCATED TO THE BOARD OF PUBLIC EDUCATION; TO PROVIDE A SPECIAL REVENUE FUND FOR THE DISPOSITION OF A PORTION OF CERTIFICATION FEES TO COVER THE EXPENSES OF THE COUNCIL; AMENDING SECTIONS 17-7-502 AND 20-4-109, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF **MONTANA**:

Section 1. Definitions. As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Approved teacher education program" means a program that is **offered** by an accredited teacher education institution and approved by the board of public education.

(2) "Council" means the certification standards and practices advisory council created in [section 2].

(3) "Specialist" means a person employed by a school district in a profession other than the teaching profession.

Section 2. Certification standards and practices advisory council. (1) **There** is a certification standards and practices advisory council allocated to the board of public education.

(2) The council consists of seven members appointed by majority vote of the board of public education. The membership of the council must include:

(a) four teachers engaged in classroom teaching, including:

(i) one who teaches within kindergarten through grade 8;
 (ii) one who teaches within grades 9 through 12 or at a designated postsecondary vocational-technical center;

(iii) one who is employed **as a** specialist; and

(iv) one additional teacher from any category set forth in this subsection (2) (a);

(b) **one.** faculty member from an approved teacher education program offered by an accredited teacher education institution;

(c) one person employed as an administrator, with the certification required in 20-4-106(1) (c); and

(d) one school district trustee.

(3) The board of public education shall select and appoint the members by June 1. If a vacancy occurs on the council, the board of public education shall appoint a person from the category of membership, as provided in subsection (2), in which the vacancy has occurred.

(4) The term of office of an appointed member is 2 years. Section 3. Officers quorum -- expenses -- meetings. (1)

The council shall select a chairman and a vice-chairman from its appointed members.

(2) A -quorum for a meeting is not less than four council members.

(3) Council members are entitled to travel expenses incurred for each day of attendance at council meetings or in the performance of any duty or service as a council member in

accordance with 2-18-501 through 2-18-503.

(4) The council shall meet quarterly and at other times as may be required for the proper conduct of the business of the council at the call of the chairman.

(5) The council may adopt rules for the conduct of its business.

(6) The council shall keep a record of its proceedings.

(7) The council may request research, administrative, and clerical staff assistance from the board of public education.

Section 4. Duties of the council. (1) The council shall study and make recommendations to the board of public education in the following areas:

(a) teacher certification standards, including but not limited to precertification training and education requirements and certification renewal requirements and procedures;

(b) administrator certification standards, including but not limited to precertification training and education requirements and certification renewal requirements and procedures;

(c) specialist certification standards, including but not limited to precertification training and education requirements and certification renewal requirements and procedures;

(d) feasibility of establishing standards of professional practices and ethical conduct;

(e) the status and efficacy of approved teacher education programs in Montana; and

(f) **policies** related to the denial, suspension, and revocation of teaching certification and the appeals process. For the purpose of preparing recommendations in this area, the council is authorized to review the individual cases and files that have **been** submitted to the board of public education.

(2) The council shall submit a written report annually to the board of public education with its recommendations for the above **areas**. The council may submit recommendations to the board of public education at other times that the council considers appropriate.

(3) The board of public education shall:

(a) at **a** regularly scheduled meeting, consider any recommendations and reports of the council; and

(b) **approve**, disapprove, or modify each recommendation of the council by majority vote of the board.

Sections. Section 20-4-109, MCA, is amended to read:

"20-4-109. **Fees** for teacher and specialist certificates. ~~ill~~ Each person applying for the issuance or renewal of a teacher or specialist certificate shall pay a fee not to exceed \$4 for each school **fiscal year** that the certificate will be valid. In addition to this **fee**, each person who has never held any class of Montana teacher or specialist certificate or for whom an emergency authorization of employment has never been issued shall pay a filing fee of **11**. Such fees shall be paid to the superintendent of public instruction, who shall deposit the fees with the state

treasurer in the following manner:

(a) \$2 to the credit of the state special revenue fund created in subsection (2);

(b) \$2 to the general fund.

(2) There is an account in the state special revenue fund. Money from fees for teacher or specialist certificates required in subsection (1) must be deposited in the account. The money in the account is statutorily appropriated, as provided in 17-7-502, to the board of public education for expenses for the certification standards and practices advisory council created in [section 2]."

Section 6. Section 17-7-502, MCA, is amended to read: "17-

7-502. Statutory appropriations definition
requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing

statutory appropriations:

- (a) 2-9-202;**
- (b) 2-17-105;**
- (c) 2-18-812;**
- Cd) 10-3-203;**
- (e) 10-3-312;**
- (f) 10-3-314;**
- (g) 10-4-301;**
- (h) 13-37-304;**
- (i) 15-31-702;**
- (j) 15-36-112;**
- .Ck) 15-70-101;**
- (l) 16-1-404;**
- Cm) 16-1-410;**
- (n) 16-1-411;**
- (o) 17-3-212;**
- (p) 17-5-404;**
- (q) 17-5-424;**
- (r) 17-5-804;**
- (s) 19-8-504;**
- (t) 19- -702;**
- (u) 19-9-1007;**
- (v) 19-10-205;**
- (w) 19-10-305;**
- (xJ) 19-10-506;**

(y) 19-11-512;
 (z) 19-11-513;
 (aa) 19-11-606;
 (bb) 19-12-301;
 (cc) 19-13-604;
 (dd) 20-6-406;
 (ee) 20-:8-111;
 (ff) **23-5-612**;
 (gg) 37-51-501;
 (hh) **53-24-206**;
 (ii) 75-1-1101;
 (jj) 75-7-305;
 (kk) 80-2-103;
 (ll) **80-2-228**;
 (mm) **90-3-301**;
 (nn) **90-3-302**;
 (oo) **90-15-103**;
 (pp) Sec. 13, EB **861**, L. 1985; and
{S9:2 20-4-109.

(4) **There is a** statutory appropriation to pay the principal, **interest, premiums,** and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that **have** been authorized and issued pursuant to the laws of Montana. Agencies that **have** entered into agreements authorized by the laws of Montana to **pay the** state treasurer, for deposit in accordance with

17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments."

Section 7. Codification instruction. Sections 1 through 4 are intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to sections 1 through 4.

Section 8. Effective date. This act is effective on July 1, 1987 ----- " " JI "

BOARD OF PUBLIC EDUCATION
CERTIFICATION STANDARDS AND PRACTICES ADVISORY COUNCIL

BYLAWS

Article I. Name

The name of the organization shall be the Montana Certification Standards and Practices Advisory Council.

Article II. Purpose

The Montana Certification Standards and Practices Advisory Council, hereinafter referred to as the Council, has been formed in accordance with 2-15-1522 MCA, and shall have as its purposes:

1. To study and make recommendations to the Board of Public Education in the following areas:
 - a. Teacher licensure standards, including, but not limited to, prelicensure training and education requirements and licensure renewal requirements and procedures;
 - b. Administrator licensure standards, including, but not limited to, prelicensure training and education requirements and licensure renewal requirements and procedures;
 - c. Specialist licensure standards, including, but not limited to, prelicensure training and education requirements and licensure renewal requirements and procedures;
 - d. Standards of professional practices and ethical conduct;
 - e. The status and efficacy of approved educator preparation providers in Montana; and
 - f. Policies related to the denial, suspension, and revocation of educator licensure and the appeals process. For the purpose of preparing recommendations in this area, the Council is authorized to review the individual cases and files that have been submitted to the Board of Public Education.
2. To submit a written report with its recommendations annually and at other appropriate times to the Board of Public Education.

3. To complete a comprehensive review and adoption of the Professional Educators of Montana Code of Ethics on a five-year cycle beginning January 1, 2012.

Article III. Membership

Membership. The Council shall consist of seven members appointed by a majority vote of the Board of Public Education. Per 2-15-1522 MCA, the membership must include:

1. Three teachers engaged in classroom teaching, including:
 - a. one who teaches within kindergarten through grade 8;
 - b. one who teaches within grade 9 through 12; and
 - c. one additional teacher from any category in subsection (2) (a) or (2) (b) of 2-15-1522 MCA.
2. One person employed as a specialist or K-12 specialist;
3. One faculty member from an accredited educator preparation provider;
4. One person employed as an administrator, with the licensure required in 20-4-106 (1) (c); and
5. One school district trustee.

Tenure.

1. The term of office of an appointed member is three years. If a vacancy occurs on the Council, the Board of Public Education shall appoint a person from the category of membership in which the vacancy occurred to serve the unexpired term. Regular appointments shall begin June 1, and end May 31, of the third year of the term.
2. Any member desiring to resign from the Council shall submit his/her resignation in writing to the Council and to the office of the Board of Public Education.

Compensation. Council members are entitled to travel expenses incurred for each day of attendance at Council meetings or in the performance of any duty or service as a Council member in accordance with 2-18-501 through 2-18-503 MCA. Eligible Council members are also entitled to per diem for each day of attendance at Council meetings, not to exceed eight days per year, in accordance with 2-15-122 MCA.

In order to receive reimbursement or compensation for out-of-state activities, the Council member must obtain the approval of the Council Chairperson and the Council Administrator in advance of undertaking the activity.

Article IV. Meetings

Meetings. The Council shall meet quarterly and at other times as may be required for the proper conduct of the business of the Council at the call of the chairperson. Such business may include, but not be limited to:

1. Information, discussion, and action on matters related to the purposes of the Council described in Article II;
2. Election of officers and appointments to committees as described in Article V;
3. Apprising the Board of Public Education of budgetary needs of the Council and making recommendations on a preliminary budget; and
4. Reviewing the Council Budget on an ongoing basis for further recommendations to the Board.

Quorum. A quorum for a meeting shall be not less than four Council members.

Each Council member shall be given written notice of the day, time, and location of any regularly scheduled meeting no less than 48 hours prior to the meeting. Notification of the meeting will be delivered via email.

Absence. Recognizing the value of his/her contribution to the business of the Council, each Council member shall be responsible to notify the chairperson and the BPE/CSPAC staff in advance of any anticipated absence from a scheduled meeting. If a member is absent from three consecutive scheduled meetings, his/her membership shall be subject to review by the Board of Public Education to determine if the member's office shall be deemed vacant. If deemed vacant, the vacancy shall be filled in accordance with Article III, Section B.

Special Meetings. Special meetings may be called by the Chairperson of the Council or by a request in writing of two appointed members. When necessary, the Council may hold meetings for resolution of specific agenda items either by a meeting in person, by conference call, electronic or digital means, or by any combination of the above. In the case of a special meeting, the Executive Director shall notify each member by email sufficiently in advance of the meeting to allow all Council members to travel to the meeting site from their principal Montana residence.

In the case of a conference call or an electronic or digital format, forty-eight hours prior to the meeting shall be deemed sufficient notice.

Meeting Procedure.

1. Meetings of the Council shall be governed by the following rules:

- a. The chair or vice-chair shall preside at all meetings. In their absence, a temporary presiding officer shall be selected by the membership.
 - b. The presiding officer shall neither introduce nor second a motion.
 - c. A motion shall require a simple majority of those present to pass.
 - d. Any motion shall be in order as long as no previous motion is on the floor.
 - e. Minutes shall be taken at all open sessions of the Council. The minutes shall be made available to the public, subject to reasonable regulation in the time and manner of inspection.
 - f. The current edition of Robert's Rules of Order shall prevail on questions of parliamentary procedure.
2. The regular order of business shall be as follows:
- a. Call to order
 - b. Pledge of Allegiance
 - c. Roll Call
 - d. Statement of Participation
 - e. Approval of the minutes of the preceding meeting
 - f. Agenda adoption
 - g. Agenda
 - h. Date and place of next meeting
 - i. Adjournment
3. An agenda shall set the structure for meetings of the Council.
- a. A list of future agenda items shall be discussed as the last item of business by the Council at each regularly scheduled meeting.
 - b. The proposed agenda shall be included with the written notice of meeting required in Section C of this article.
 - c. Persons or organizations desiring to address the Council may make a request using the online Agenda Request process or by notifying the staff, Chair, or Vice

Chair. Requests will be reviewed by the Council Chair and Vice Chair and considered for approval.

- d. The proposed agenda becomes the approved agenda by a majority vote of Council members at the beginning of the meeting.
- e. Whenever possible, support materials for the agenda shall be in electronic form and readily available to the membership.

Article V. Organization

Section A. Officers

1. The Council shall select, by majority vote, a chair and vice-chair from its appointed members annually during the fall meeting of each year.
2. The term of elective office shall be for one year and an officer may not serve more than six consecutive years.
3. The chair shall be the presiding officer and shall preside over all regular, special, and public meetings of the Council. The vice-chair shall perform the functions of the chair in the absence of the chair.

Section B. Committees

1. The Chair may appoint Special Committees as needed.
2. The Executive Committee shall consist of the chair, vice-chair, and Executive Director. The Executive Committee shall be responsible for presenting budgeting proposals to the Council and to the Board of Public Education. The Executive Committee shall be responsible for performing other duties as assigned by the chair or Council.
3. The committees will meet at times agreed upon by the majority of the committee. The Council Chair and Executive Director of the Board of Public Education shall be informed of the purpose, time, and place of all committee meetings.

Article VI. Communications

These bylaws may be added to or amended by a two-thirds majority vote of the entire Certification Standards and Practices Advisory Council provided that the proposed amendment is sent in writing to all members of the Certification Standards and Practices Advisory Council at least seven days in advance of the vote to amend the bylaws.

Article VII. Professional Development

The Council recommends professional development opportunities for Council members whenever possible.