

BEFORE THE OFFICE OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of soliciting applications) AMENDMENT TO NOTICE OF
for membership on a negotiated) NEGOTIATED RULEMAKING
rulemaking committee to amend ARM)
10.56.101 pertaining to the policies)
and procedures for standardized test)
administration using the required)
statewide assessments)

TO: All Concerned Persons

1. The Office of Public Instruction published a Notice of Negotiated Rulemaking on May 25, 2018 in Volume 10 of the Montana Administrative Register at page 998. Paragraph 2 of the notice contained incorrect information. The following is the correct language for paragraph 2.

"2. The independent negotiated rulemaking committee will consider issues for the purpose of reaching a consensus on the proposed rule amendment pertaining to policies and procedures for standardized test administration using the required statewide assessments."

3. All other paragraphs contained in the Notice of Negotiated Rulemaking remain unchanged.

/s/ Kyle A. Moen
Kyle A. Moen
Rule Reviewer

/s/ Elsie Arntzen
Elsie Arntzen, Superintendent
Office of Public Instruction

Certified to the Secretary of State, May 29, 2018.

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TO: All Concerned Persons

1. The Office of Public Instruction intends to establish an independent negotiated rulemaking committee to amend ARM 10.56.101 pertaining to the policies and procedures for standardized test administration using the required statewide assessments and to consult on the preparation of an economic impact statement. This negotiated rulemaking process is required by 20-7-101, MCA (2017).

2. The independent negotiated rulemaking committee will consider issues for the purpose of reaching a consensus on the proposed rule amendment requiring schools to adopt a policy for implementation of all hazard emergency and response plans.

3. Interests that are likely to be significantly affected by the proposed rulemaking are those related to accredited Montana K-12 schools of all sizes.

4. The individuals proposed to represent state agencies on the negotiated rulemaking committee are: Susie Hedalen, Deputy Superintendent for Education Services, Office of Public Instruction; Linda Vrooman Peterson, Accreditation and Educator Preparation Division Administrator, Office of Public Instruction; the State Assessment Director, Office of Public Instruction; Ashley McGrath, NAEP State Coordinator, Office of Public Instruction; Colet Bartow, Content Standards and Instruction Division Administrator, Office of Public Instruction; Kyle A. Moen, Chief Legal Counsel, Office of Public Instruction; and Peter Donovan, Executive Director, Board of Public Education.

5. The agency is seeking applications from interested parties to serve on the committee. The agency will seek individuals likely to be significantly affected by the proposed rule amendment, including individuals from the following groups: school district trustees, K-12 school administrators, K-12 teachers and counselors, K-12 curriculum directors, K-12 testing coordinators, parents, and taxpayers. Members of the committee will be selected based on the following criteria:

- cultural diversity
- geography
- K-12 large-scale statewide assessment experience

K-12 special education or English language learner experience
district and school size
grade levels served

6. The proposed working schedule for the negotiated rulemaking committee is as follows:

(a) On May 25, 2018, this notice will be published in the Montana Administrative Register (MAR). The notice will also be mailed to persons known to the agency to have an interest in this matter.

(b) Applications for membership on the negotiated rulemaking committee must be received no later than June 30, 2018. After receipt and consideration of the comments and applications, the agency will establish a negotiated rulemaking committee no later than July 13, 2018. The members selected to serve on the committee must be able to adequately represent the interests of the persons that will be significantly affected by the proposed rule amendment. The committee members will be notified in writing of their selection and receive an information packet.

(c) The negotiated rulemaking committee will convene its first meeting on August 6, 2018. Teleconferencing and e-mail correspondence will be utilized as much as possible. The committee will begin with an initial draft of the amendment at this meeting.

(d) The committee will transmit a report to the agency specifying the areas in which the committee has reached consensus and the issues that remain unresolved.

(e) Thereafter the Superintendent of Public Instruction will develop recommendations and present them to the Board of Public Education for formal rulemaking.

7. Any individual or entity interested in applying for or nominating another person for membership on the committee must submit the following information in writing to Ashley McGrath, amcgrath@mt.gov, Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620, no later than June 30, 2018:

(a) the person's name or the nominee's name, address, and contact information including telephone or e-mail address where you can be contacted during the summer months and during the school year;

(b) evidence that the person or nominee represents any of the specific criteria of interest groups listed above;

(c) the name of the school district in which the nominee lives or works, and the relationship of the person or nominee to it;

(d) a commitment that the person or nominee will be able to participate in the negotiated rulemaking process and will actively participate in good faith in the development of the proposed rule amendment under consideration; and

(e) the ability of the person or nominee to cover committee participation costs (such as telephone calls, travel, and per diem expenses).

8. Interested parties may submit their views and comments concerning the proposed negotiated rulemaking process to Ashley McGrath, Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620, faxed to (406) 444-3924, or electronic mail to NRStudentAssessment@mt.gov no later than June 30, 2018.

9. The agency proposes to limit the size of the negotiated rulemaking committee to no more than fifteen persons and two "alternate" members selected in the event a member is unable to participate. However, after receipt of comments and applications, the agency may determine that a smaller or larger number is necessary to adequately represent the interests of the persons significantly affected by the proposed rule amendment. The selected committee members may represent other parties or agencies that have a significant relationship with Montana schools.

10. The agency will make reasonable accommodations for persons with disabilities who wish to participate on the committee. If you require an accommodation, please advise the agency of the nature of the accommodation you need when applying for membership on the committee.

11. Please note the following concerning the process of negotiated rulemaking:

(a) "Interest" for the purpose of this process means multiple parties that have similar points of view or that are likely to be affected in a similar manner in relationship to matters affected by the rule(s) (2-5-103(5), MCA).

(b) Negotiated rulemaking is not a substitute for the public notification and participation requirements of the Montana Administrative Procedure Act, and a consensus agreement by a negotiated rulemaking committee may be modified by an agency as a result of the subsequent rulemaking process (2-5-102, MCA).

12. The specific grant of rulemaking authority authorizing the Board of Public Education to adopt the proposed rules is found in 20-2-121, MCA. The proposed rule amendment will implement 20-2-121, and Title 20, chapter 7, part 1, MCA.

/s/ Kyle A. Moen
Kyle A. Moen
Rule Reviewer

/s/ Elsie Arntzen
Elsie Arntzen, Superintendent
Office of Public Instruction

Certified to the Secretary of State, May 15, 2018.