

BEFORE THE OFFICE OF PUBLIC INSTRUCTION  
OF THE STATE OF MONTANA

In the matter of soliciting applications ) NOTICE OF NEGOTIATED  
for membership on a negotiated ) RULEMAKING  
rulemaking committee to develop K- )  
12 health enhancement standards )  
and performance indicators )

TO: All Concerned Persons

1. The Office of Public Instruction intends to establish a negotiated rulemaking committee to develop and amend Board of Public Education rules relating to K-12 content standards and performance indicators for health enhancement and to consult on the preparation of an economic impact statement. This negotiated rulemaking process is required by 20-7-101, MCA, for any rules relating to standards of accreditation.

2. The proposed rules will establish K-12 grade level content and performance standards for health enhancement.

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

4. The individuals proposed to represent state agencies on the negotiated rulemaking committee are: Karin Olsen Billings, Health Enhancement Division Administrator; Ann Gilkey, Office of Public Instruction, Legal Counsel; Peter Donovan, Board of Public Education, Executive Director; Dr. Megan Chilson, University of Montana, Western.

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 rules, including individuals from the following groups: school district trustees, K-12 school administrators, K-12 teachers, higher education faculty, school business officials, parents, and taxpayers. Members of the committee will be selected based on the following criteria:

- cultural diversity
- geography
- health enhancement content experience
- district and school size
- grade levels served

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

(a) On July 16, 2015, 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 August 14, 2015. After receipt and consideration of the comments and applications, the agency will establish a negotiated rulemaking committee no later than August 28, 2015. 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 rules. 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 September 30, 2015. Teleconferencing and e-mail correspondence will be utilized as much as possible. The initial meeting will convene at 10:00 a.m., in the conference room, at the Holiday Inn Express Downtown, Helena, Montana. The committee will begin with an initial draft of amendments to current Board of Public Education content standards and performance indicators for health enhancement at this meeting.

(d) If the negotiated rulemaking committee is successful in achieving a consensus on the proposed rules, the committee will transmit a report to the agency specifying the areas in which the committee has reached a consensus and the issues that remain unresolved.

(e) Thereafter the superintendent 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 Karin Olsen Billings; kbillings@mt.gov; Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620, no later than August 14, 2015:

(a) the person's name or the nominee's name, address, and contact information including telephone or e-mail address;

(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 as contemplated in paragraph 6 and will actively participate in good faith in the development of the rules 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 Beverly Marlow, Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620, faxed to (406) 444-2893, or electronic mail to bemarlow@mt.gov no later than August 31, 2015.

9. Initially, the agency proposes to limit the size of the negotiated rulemaking committee to no more than fifteen persons. 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 rules. 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 20-7-101, MCA. The proposed rules will implement Title 20, chapter 7, part 1, MCA.

/s/ Ann Gilkey  
Ann Gilkey  
Rule Reviewer

/s/ Denise Juneau  
Denise Juneau, Superintendent  
Office of Public Instruction

Certified to the Secretary of State July 6, 2015.