

BOARD OF PUBLIC EDUCATION

CHAPTER 67

POLICY ESTABLISHING STATE AID DISTRIBUTION SCHEDULE  
FOR PUBLIC SCHOOL DISTRICTS

Sub-Chapter 1

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## Sub-Chapter 1

## Policy

10.67.101 STATE AID DISTRIBUTION SCHEDULE (1) State equalization aid will be distributed pursuant to the provisions of section 20-9-344, MCA. The superintendent of public instruction shall distribute the state equalization aid on the basis of each district's entitlement of the aid as established by the superintendent of public instruction.

(2) The board of public education may not increase or decrease the state equalization 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.

(3) The first foundation program payment and guaranteed tax base aid payment must be based on an estimate of 20% of the entitlement of each district or county and must be distributed by July 15 of the school fiscal year.

(4) Each subsequent monthly payment must be at least 7% of the entitlement of each district or county.

(5) if a district or county receives more state equalization aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the department of commerce. (History: Sec. 20-2-114, 20-2-121, 20-9-344, 20-9-346 MCA; IMP, SEC. 20-9-344, 30-9-346 MCA; NEW, 1978 MAR p. 998, Eff. 7/15/78; AMD, 1988 MAR p. 1526, Eff. 7/15/88; AMD, 1990 MAR p. 1254, Eff. 6/29/90.)

10.67.102 REPORTING AND ACCREDITATION REQUIREMENTS

(1) The board of public education has the authority to require any reports it considers necessary.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of schools to withhold county equalization money from a district when the district:

(a) fails to submit reports or budgets as required by statute or by these rules; or

(b) fails to maintain accredited status.

(3) The board of public education shall require the reports or budgets set forth in the following provisions to be submitted to the board in a timely manner:

(a) 20-9-213, MCA;

(b) ARM 10.55.601.

(4) The board of public education shall require the reports or budgets set forth in the following provisions to be submitted to the superintendent of public instruction in a

timely manner:

- (a) 20-3-205, MCA;
- (b) 20-3-209, MCA;
- (c) 20-3-324, MCA;
- (d) 20-4-110(3), MCA;
- (e) 20-4-402, MCA;
- (f) 20-9-211, MCA;
- (g) 20-9-212, MCA;
- (h) 20-9-213, MCA.

(5) Prior to any proposed order by the board of public education to withhold distribution of state equalization aid or county equalization money, the district is entitled to a contested case hearing before the board of public education as provided in ARM 10.67.103.

(6) School districts shall be notified by the superintendent of public instruction of the dates upon which financial reports and budget statements must be provided to the superintendent. If the superintendent does not receive the reports within 35 days after initial notice to the district, the superintendent shall give written notice of the violation to the board. Upon receipt of a written notice of a violation, the board shall determine at a hearing held pursuant to ARM 10.67.103 whether or not a substantial reason exists to withhold funds.

(a) If the district has one report which is overdue, the board shall withhold up to 25 percent of the funds to which the district is entitled and shall give the district 90 days to cure the violation. If the violation has not been cured within 90 days, the board shall withhold up to 25 percent of the funds to which the district is entitled until the district cures the violation. At such time as the district cures the violation, the board shall release the withheld funds to the district.

(b) If the district has two reports which are overdue, the board shall withhold up to 50 percent of the funds to which the district is entitled and shall give the district 90 days to cure the violations. If the violation has not been cured within 90 days, the board shall withhold up to 50 percent of the funds to which the district is entitled until the district cures the violations. At such time as the district cures the violation, the board shall release the withheld funds to the district. Where the district has more than one pending violation, the board may release a proportioned amount of any withheld funds for each violation that is cured.

(c) If the district has three or more reports which are overdue, the board shall withhold up to 100 percent of the funds to which the district is entitled and shall give the district 90 days to cure the violation. If the violations have not been cured within 90 days, the board shall withhold

100 percent of the funds to which the district is entitled until the district cures the violation. At such time as the district cures the violations, the board shall release the withheld funds to the district. Where the district has more than one pending violation, the board may release a proportionate amount of any withheld funds for each violation that is cured. (History: Sec. 20-2-114, 20-2-121, 20-9-344, 20-9-346, MCA; NEW, 1990 MAR p. 11254, Eff. 6/29/90; AMD, 1992 MAR p. 1142, Eff. 5/29/92.)

10.67.103 NOTICE AND OPPORTUNITY FOR HEARING UPON DETERMINATION THAT DISTRICT HAS FAILED TO SUMIT REPORTS OR BUDGETS

(1) On the basis of a preliminary notification from the superintendent of public instruction that a district has failed to submit required reports or budgets or has failed to maintain accredited status and has been designated as on deficiency status, the board of public education shall make a preliminary determination of whether or not a substantial reason exists to order the superintendent of public instruction to withhold distribution of state equalization aid or to order the county superintendent to withhold county equalization money from a district.

(a) If the board determines that no substantial reason exists to withhold funds, the matter is ended.

(b) if the board determines that there is a substantial reason to withhold funds, the board shall provide notice by certified mail of the pending action to the district. Such notice shall include:

(i) a statement of the time, place and nature of the hearing;

(ii) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(iii) a reference to the particular sections of the statutes and the rules involved;

- (iv) a statement of the matters asserted;
- (v) a designation of who will hear the allegation;
- (vi) a provision advising parties of their right to be represented by counsel at the hearing.

(c) The notice shall advise the district that it has the right to contest the proposed action of the board, and that it may do so by appearing at the hearing either through a representative of the school district or through counsel or by requesting the board to consider the matter on the basis of the available information without an appearance by a representative of the district.

(d) The board shall enclose with the notice an election form on which the district shall be asked to indicate whether it intends to appear at the hearing and contest the board's proposed action, contest the board's proposed action without appearing at the hearing, or accept the proposed withholding of funds without contesting it. The notice shall require the district to return the election form within twenty 9200 days of the date on which the notice was mailed, and shall inform the district that failure to return the form in a timely manner will result in the withholding of funds by default.

(e) If the district does not return the completed election form within twenty (20) days or elects to accept the proposed withholding of funds without contesting it, the board shall order the equalization funds withheld at its next meeting.

(f) If the district elects to contest the proposed withholding of funds and complies with subsection (1)(d) of this rule, the board shall conduct a hearing. (History: Sec. 20-2-114, 20-2-121, 20-9-344, 20-9-346, MCA; IMP, Sec. 20-9-344, 20-9-346, MCA; NEW, 1990 MAR p. 1254, Eff. 6/29/90.)

10.67.104 HEARING IN CONTESTED CASES (1) The board shall select one of the following methods for providing a hearing:

(a) a hearing or telephone hearing before the board of public education at a special or regular meeting of the board;

(b) a hearing or telephone hearing before board member(s) who will report to the board proposed findings of fact, proposed conclusions of law and a proposed order; or

(c) a hearing or telephone hearing before a hearing examiner appointed by the board of public education who will report to the board proposed findings of fact, proposed conclusions of law and a proposed order.

(2) At the time and place set in the notice to the district, the chairperson of the board of public education or designated board member(s) or an appointed hearing examiner shall conduct the hearing in accordance with rules 9 through 21 of the attorney general's model rules for hearing contested cases, as found in the Administrative Rules of Montana.

10.67.105

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(History: Sec. 20-2-114, 20-2-121, 20-9-344, 20-9-346, MCA; IMP, sec. 20-9-344, 20-9-346, MCA; NEW, 1990 MAR p. 1254, Eff. 6/29/90.)

10.67.105 AFTER HEARING BY MEMBER OF BOARD/HEARING EXAMINER/BOARD OF PUBLIC EDUCATION (1) After hearing by the board of public education, the board adopts findings of fact, conclusions of law and an order either withholding equalization funds or permitting the disbursement of equalization funds to the district. The board shall enter its decision on its minutes and shall serve a copy by certified mail on the party adversely affected and on any other involved party. (History: Sec. 20-2-114, 20-2-121, 20-9-344, 20-9-346, MCA; IMP, Sec. 20-9-344, 20-9-346, MCA; NEW, 1990 MAR p. 1254, Eff. 6/29/90.)