



## Chapter 55 Negotiated Rule Making Meeting Minutes Thursday, March 17, 2022 10:00 AM – 5:00 PM

### Meeting Start Time:

#### Roll Call

##### Negotiated Rule Making Members

Sharyl Allen  
Alex Ator  
Corey Barron  
Tara Hubing  
Susan Lake  
Adrea Lawrence  
Kitty Logan  
Rhonda Long  
Craig Mueller  
Julie Murgel  
Chris Olszewski  
Michele Paine  
Renee Schoening  
Stephen Schreibeis  
Christina Wekkin

##### BPE Representation

McCall Flynn

##### Facilitator

Aislinn Brown

##### Technical Support

Tristen Loveridge

##### OPI Representation

Nathan Miller

### Welcome and Overview

1. Negotiated Rule Making Committee (NRM) members each introduce themselves
2. Aislinn Brown: Welcomes group and reviews:
  - a. Meeting Agenda
  - b. NRM purpose
  - c. NRM process
  - d. process of adoption of administrative rule
  - e. Chapter 55 Revision Roles
    - i. Office of Public Instruction
    - ii. State Agencies Committee
    - iii. Negotiated Rulemaking Facilitator
      1. Facilitator Conformation
        - a. NRM confirms Aislinn Brown as the facilitator for these meetings
    - iv. School Quality Task Force

- v. Negotiated Rule Making Committee
    - 1. NRM conformation
      - a. NRM confirms formation of committee
  - vi. Superintendent of Public Instruction
  - vii. Board of Public Education
  - viii. Education Interim Committee
  - ix. Local School District Boards of Trustees
- f. Task Force Timeline
3. Michele Paine: Can you explain the school quality Task Force?
    - a. Aislinn: the TF is recommending general themes and will begin drafting changes. Tomorrow the NRM will have a chance to review conceptual changes.
  4. Aislinn Brown: continues reviewing:
    - a. NRM Timeline
      - i. Two meetings are being added, one additional in-person work session and a zoom work session. Dates will be determined by majority.
    - b. Communication Plan
    - c. Operating Logistics
  5. Aislinn Brown: Proposes consensus be defined as the absence of dissent. Practices this model by proposing the NRM take a break.
    - a. Sharyl Allen: Dissents, would like to be in session for an hour before taking a break.
      - i. Aislinn Brown: Revises proposal to a break at 11:00 AM
      - ii. There is no dissent and proposal passes
    - b. Aislinn Brown: Proposes the NRM adopt the model of consensus by the absence of dissent.
      - i. There is no dissent and proposal passes
  6. Aislinn Brown: Reviews ground rules for NRM:
    - a. Any committee member who dissents from a proposed action must propose a solution
    - b. No outside interruptions – Cell phones and messaging applications off during session
    - c. “Speak now or forever hold your peace” – if you wish to dissent, do it now.
    - d. No substitutes or replacements for committee members.
    - e. Sharyl Allen: Those that are on the committee come with the ability to vote. When voting occurs, if a member is representing an entity, they have the full authority of that entity.
    - f. Adrea Lawrence: Would like to see the materials one week ahead of time
    - g. Chris Olszewski: Asks how an item would be tabled due to dissent that is not against the proposal but would like the opportunity to look further into an item.
      - i. Aislinn: Has no problem if an item needs to be tabled until more information is found.
    - h. Alex Ator: Voices dissent on the on the rule for no substitutes
      - i. Julie Murgel: Asks for rational why Alex voiced dissent on this rule.
      - ii. Alex: He knows there are several in the group that have very important roles for the NRM. Would not like to see the progress halt due to their absence.
      - iii. Aislinn: clarifies that this rule only applies to committee members. If Tristen is out sick, someone will be found to replace her.
      - iv. Julie: Both Tristen and Nathan support the work and are not voting members of the NRM. She would not like to have special treatment due to her role at the OPI. She is a participating member of NRM like everyone else.
      - v. Alex: With this clarification, he withdraws his dissent
    - i. No further dissent, all rules are adopted

## Negotiated Rule Making 101

1. Aislinn Brown: reviews:
  - a. What Negotiate Rulemaking is
  - b. Why the OPI is convening Negotiated Rulemaking for Accreditation standards
  - c. Economic Impact Statement requirements and sample document
  - d. The final report

## Accreditation 101

1. Julie Murgel: reviews:
  - a. Brief history of accreditation
  - b. Montana Code Annotated
  - c. ARM Chapter 55
  - d. program area standards and content standards
2. Adrea Lawrence: is there rational to approach 55 separately from than 53 and 54? She is curious why they are looked at separately rather than simultaneously.
  - a. Julie: Has asked this question as well. She doesn't have an answer, but this is a great question.
3. Julie Murgel: Asks the NRM to discuss what they hope the School Quality TF has addressed so far. NRM thoughts:
  - a. Sharyl Allen: The way we think about what library duties are is for a time far gone. A better description would be media tech.
  - b. McCall Flynn: Also discussed library. Maybe it would be good to have someone that works with and represents library media to sit in these conversations.
  - c. Renee Schoening: A clear perspective on mental health and counseling for students. Would like to see a reduction in the ratio because our kids need help and more mental health services. School counselors are the ones credentialed to do that work.
    - i. Sharyl: would like to jump in and suggest a 10/1 ratio.
    - ii. Renee: The other piece of this is to mitigate burnout. We were in a mental health crisis before the pandemic, but we have only seen the tip of the iceberg in terms of the mental health impact on kids and families. It is a systemic issue.
    - iii. Sharyl: Looking more at the side of counseling vs a guidance counselor.
  - d. Susan lake: Looking at her schools, the athletic programs have requirements for kids to participate, but perhaps it would be more important to ensure they are on track for graduation. It is important to get a diploma but the way the school is set up don't create the opportunity for freshman, sophomore, juniors, and seniors are on track.

## Federal Accountability System

1. Julie Murgel: Reviews:
  - a. Federal Accountability system Indicators

## Accreditation Framework

1. Julie Murgel: reviews:
  - a. Accreditation Framework
    - i. Essential Elements of quality schools
    - ii. Meaningful accreditation process
    - iii. Response to accreditation
    - iv. School improvement
  - b. Accreditation Standards

## Accreditation Process

1. Nathan Miller: Reviews:
  - a. Steps to Accreditation
    - i. Step 1: Determine Assurance Standards Level
    - ii. Step 2: Determine Student Performance Standards Level
    - iii. Step 3: Use assurance standards level and student performance standard level to determine final accreditation status
    - iv. Step 4: Adjusted accreditation status criteria-FY 2021 only
  - b. Accreditation status for 2021-2022
  - c. TEAMS Data Collection
  - d. Terms of Employment, Accreditation, and Master Schedule (TEAMS)
  - e. TEAMS Screen-By-Screen Process
  - f. Annual Accreditation Report
2. Accreditation Reflection Point: What information did you already know about the process? What is something you learned about the process that you did not know? NRM Thoughts:
  - a. Julie Murgel: Discussed what determines if you have one time to be deficient vs some categories that don't go into deficiency till it is repeated three years in a row. Not all categories are treated equally. Some have a quicker impact on status.
  - b. Sharyl Allen: Discussed the term "length of time" and describes an example from California. Also discussed if a district should be accredited rather than each school. If a district is accredited, it would be a comprehensive strategy. Perhaps the idea of school accreditation has outlived its usefulness.
  - c. Alex Ator: One thing he has thought about accreditation, is that is a onetime snapshot. He shares a couple of examples. The fall snapshot creates and fixes problems at the same time.
3. Julie Murgel: Connects the rule and assurance standards that are tied to the rule.

## Response to Accreditation

1. Julie Murgel: Reviews:
  - a. Variance to standard
  - b. Current Variance to standards
    - i. Kitty: Are schools that are under the variances choosing not to get to the standard requirements? She is not sure what is happening since there are ways to get to the standard.
    - ii. Michele: Flathead High School student population rose over 1500 students and made them deficient. They were compliant for many years until the student population rose.
    - iii. Nathan: Explains situations that are seen a lot at the OPI with schools struggling with Librarian Media Specialists.
    - iv. Sharyl Allen: Shares example from Great Falls. Similar to Kalispell High School. It is good to be having these conversations. Appreciates the examples Nathan provided. These are the minimum standards of quality.
    - v. Alex Ator: One of the reasons he is on this committee is because he is on the variance board and sat through the Great Falls example Sharyl shared. It was very frustrating because they didn't have the capacity to give them the variance. He gives personal example being unable to run a weights class. He understands that there is value to a highly qualified teacher, but there is also value behind common sense and local control. When we're looking at standards and set the base line, we need to include language that creates common sense in the decision-making process.
    - vi. Stephen Schreiber: As a superintendent looking at highly qualified individuals it makes sense that we want someone that is experienced but understanding it's not just highly qualified but also highly effective in positions. As a superintendent, when you cannot fill a position, you can

file for an emergency authorization to teach from off the street. Yet he cannot take a math teacher to teach in another subject because they would not be in compliance.

### Corrective Plans

1. Julie Murgel: Reviews:
  - a. Corrective plan definition
  - b. Corrective Plan ARM

### Intensive Assistance

1. Julie Murgel: Reviews
  - a. Intensive Assistance definition
  - b. Intensive assistance ARM
  - c. Intensive assistance schools 2019-2020
2. Julie Murgel: Asks the NRM where in rule it explains the next step in Intensive assistance?
  - a. Julie Murgel: 10.55.605 (9) (pg. 17 in packet)
  - b. Sharyl Allen: This comes back to the CA model. We only come back to address variances rather than addressing everything every year. Not achieving accreditation status affects funding.
  - c. Renee: What are the consequences for non-accreditation?
    - i. Julie: Funding and High Schools cannot participate in the Montana Athletic Programs
  - d. Stephen: would it affect High School diplomas?
    - i. Sharyl: We can enter a college with no diploma. These are important questions to ask ourselves.
  - e. Julie: There are many states that only accredit High Schools, states that have different cycles, some states do desk monitoring and onsite visits on a cycle. There is a range of how schools are accredited in the K-12 setting.
3. Julie: Reviews data on Intensive Assistance
4. Reflection Point: After reviewing the variant to standards, corrective plan, intensive assistance, and school improvement process, what are you curious about? NRM Thoughts:
  - a. Christina Wekkin: Is curious about accountability. Likes the idea to have another teacher take on responsibilities if they are not endorsed in those areas. What about the schools that are trying to slide under the radar? How can we protect that quality?
  - b. Renee Schoening: She is curious about what kind of checks and balances there are to ensure teachers that are wearing more than one hat are credentialed. Some areas are more of a concern than others. Some teachers are assigned the role of school counselor without any training. This is a huge concern with the level of education and training counselors get in a 60-credit master's program.
    - i. Nathan: The data the OPI uses is self-reported by each school in the fall. We look at the endorsements and FTE requirements. Those are the basis of information they have to see if people are in those positions.
  - c. Susan Lake: Sometimes it seems the end result and most important thing, is if students did well. The ultimate measurement is if the student gets the outcomes that we wanted. Rather than worrying about all of the pieces of paper above it.
  - d. Kitty Logan: Discussed High Schools and how they could offer more electives for kids. Maybe it is a matter of getting creative around what they're going to call the class "engineering for life" helping senior skills for when they get out of high school. Wouldn't it be cool to be able to offer more of these courses to students?

### Accreditation Data

5. Julie Murgel: Reviews:

- a. Advice status
- b. Deficiency Status
- c. Annual MT Accreditation report
- d. Comparative data
- e. Deviation Data for 2020-2021 and Data trends
  - i. Adrea: In looking at the charts and comparing to the definitions of assurance standards then going into Ch55 itself, the data is not disaggregated by subchapter. Would need to look at program area standards, educational opportunity, academic requirements, school leaders, and general provisions.
    - 1. Julie: You're asking a very good question. Some of the subchapters are based on the variance to standards rules or process but those are not the assurance standards. Asks Nathan how often we see a deficiency in something other than a staffing ratio?
    - 2. Adrea: A follow up question would be why aren't they included? If they're considered assurance standards, why aren't they included in the accreditation measures?
    - 3. Julie: They're included, but we don't see districts with a deficiency in it.
    - 4. Nathan: This data for a five-year trend of each individual accreditation standard. That data can be provided.
  - ii. Renee: Is there correlational data between deficiencies and the assurance standard and student performance?
    - 1. Julie: asks if there are misassigned and unlicensed teachers is there lower or higher performance? If we're assuming that unlicensed teachers lead to low student performance, we would see a correlation between unlicensed teachers and the schools with low performance. But we're not seeing that here.
    - 2. Renee: The data is not desegregated to the point we could make that connection. She is concerned of the impact on kids when the assurance standards aren't met.
  - iii. Sharyl: When we look at student performance data were only looking at specific areas. We don't know if those misassignments are tested or non-tested areas. This is something she would like to know if the misassignments are in ELA or mathematics.
  - iv. Julie: Each of these questions are important because were looking for the relationship between the assurance standards and performance standards.
  - v. Alex: It is one thing to create pathways with prior practice, performance, and success. We need to be careful to ensure we're not paving over pathways that have already been created. On the variance to standards board, he would like to see more people come to variance to standard or variance to licensure. To have someone bring progressive ideas and thought process to get the right person in front of a class without having to go through a program to get licensed. People are going to be protective of subjects like math and ELA because those courses lead to accreditation.
  - vi. Sharyl Allen: when we look at this comprehensively, we see that since 2016 we see a growth in deficiencies, but it is the regular that has declined slightly over that same period. It is curious that advice has held constant.
- f. Five-year accreditation deviation trends
  - i. Nathan: the only outlier is the superintendent non licensed. When a superintendent is not licensed it is a deviation for every school in the district.
  - ii. Adrea: Curious if OPI has look at other that might correlate with accreditation performance. We're looking at snapshot data for accreditation. She is curious if we're looking at farms data or geographic patterns? Those give a good indication of the area's socioeconomic status. What patters may exist and how it does and does not come into play with accreditation.

1. Nathan: In the past they have looked at MASS region and the local code to compare rural vs urban. If there is data, the committee would like to know he would be willing to find it.

## Data talk

1. Discuss observations of the data: what do you see? (What are your initial thoughts or reaction? What do these data not provide?)
  - a. Chris: Looking closely at the trend data over the last 5 years. Nice to see in the last 2 years the decrease in advice and deficiency. Not sure if it is based on flexibilities. Even though we have always had an issue with councilors or library media specialists, it's not an issue of non-licensed but not endorsed. The classroom overload piece and loss of leadership could be a result of retirement due to COVID. Would be interesting to see how many teacher and leadership positions have retired in the past two years.
  - b. Renee: The thing that stands out for her is the student performance standards only include assessment and graduation rates. Accreditation is holding schools accountable for what we hope for them to achieve. What we want is successful students. To her, success is not just a test or graduation rate. Success is student wellness, engagement, learning, growth, and college and career readiness. It seems we are missing a piece. We cannot measure student success with just based on assessment and graduation rate data.
  - c. Michele Paine: Her thoughts have more to do with licensing of teachers and the challenges NW MT have in hiring people that can move to the area and afford the cost to live. In the last two years she has had to hire teachers with a provisional license has gone up dramatically and she is having a hard time filling positions in the \$14-\$15 range. She worries we won't be able to address those changes in her community. She wonders with that trend happening what will it do to our student achievement.
  - d. Christina: Looking at the data and schools that are in regular, advice, and deficiency she wonders where is the location and school size that are being impacted? Are we struggling to get the help where it's needed and is it because of the economic status of those areas? The numbers are separated, and she can't see the matchup. Is it the small rural schools that are dominated? We can see there are some larger schools, but we can't find the correlation.
  - e. Susan Lake: would like to see how all the accreditation standards impact student performance, what student data is used for performances and assessments, what are the greatest deficiency areas for student performance, and who are the non-licensed teachers and what areas are most affected? She wonders about the programs not offered in Middle school. She wonders what the program is and if it is not of great value. She also wonders if in the outlier and bigger schools if we can take advantage of virtual teachers. There are ways to access quality teachers.
  - f. Sharyl Allen: Wondering why our intensive assistant and comprehensive schools are predominantly tribal communities. Then wonders how many of the teacher misassignments are a cause of that labeling. Why are we not looking at that more closely?
    - i. Renee: The way we measure student success doesn't take into consideration student culture and socioeconomic status. There is a lot of research that students in lower SES communities perform lower academically regardless of the supports. We need to consider diversity and be inclusive and not apply templates when their resources are so different
    - ii. Allen: Where is our focus? Is it on the student and their outcomes or is on stuff that doesn't necessarily correlate with student outcomes and performance? And is that how we measure quality?
    - iii. Susan lake. The socioeconomic status is more of a measure than race and culture. It is difficult to educate a child that never gets to school. What if we utilized resources to help parents get

children to school? Having a very friendly and open environment is incredibly important (principals greeting students, teachers are welcoming, ensure students have breakfast, etc.)

2. Discuss interpretations of the data: What do the data tell you? (What do you want to know more about based on the data? I wonder why? I wonder if? What do these data confirm?)
  - a. Sharyl: Staffing is a growing problem. If accreditation is a measure of quality, the data tells us quality is declining.
3. Discuss implications for the data: what are the implications? (So what? Why does this matter? What does this mean for our task force work?)
  - a. Renee: We have our work cut out for us.
  - b. Julie: The library media specialist ratio: Why is that there, why so much, the deviations, and variance to standards. How much of this piece is impacting schools overall?
  - c. Susan Lake: is she misreading the schools in deficiency comparison? When she looks at the chart, she sees less schools are deficient because of performance and our quality isn't declining. Or perhaps she is missing data.
  - d. Christina Wekkin: She started out in library media endorsement and one of the struggles she found as a working teacher doing an internship were the requirements. There are a lot of requirements and hoops to jump through and it is more challenging than many can take on. For her, she was not willing to sacrifice the students in her classroom to prepare for future students in library.

### Wrap up and Next Steps

1. Aislinn Brown: Reviews the NRM next steps and next meeting agenda

### Public Comment

1. Dennis Parman, Executive Director, Montana Rural Education Association: Thank you for being here and the time going to be spent on this. He is getting a sense that everyone understands how involved the work will be. Stephen brought up having a teacher that is licensed but not endorsed and forced to go out in the community to find someone. You can do that, and the rule is in ch57 not 55. Was a deputy Superintendent at OPI from July 1, 2009, through June 30, 2016, and that was one of the last rules that they put in place. There was a young lady in Ft Benton that taught art and a call was made about why that couldn't be done. Encourages not to assign a teacher to do that doesn't want to. It is renewable, if they renew 4 times, they are tenured, but they're not endorsed to teach in the right area. During that time, Patty Meyers, chair of BPE facilitated the work of Ch55 10 years ago in 2013. They had 50 stakeholders at the table, it was a time before the statute for negotiated rule making was in place. We can thank Superintendent Arntzen who carried the bill in the legislative session when she was in the Senate. One of the big differences is that the economic impact report has to be prepared and then will go to the interim education committee then go to the finance subcommittee for section E. Historically, nothing has happened in the legislature because of state funding. They told him to ensure that would not happen anymore. They did not change staffing ratios due to fiscal rules that were in place, but he encourages to do what the NRM thinks is right. Heard Renee' say that counselors should be a ratio of 250/1 rather than 300/1. If this goes to the interim committee and the budget committee, they will probably do one of two things. They might recommend that that it has to go to the full legislature where part of it may get funded from the state or they choose not to fund any of it, leading to an unfunded mandate. Do the right thing. We already know that we live in an environment of scarcity financial resources and staff that are properly licensed and endorsed. He hopes decisions aren't made trapped in a mindset of scarcity, but he knows that scarcity isn't going to leave your mind either. This is the Committee's meeting. It is not the facilitators meeting, or OPIs meeting. He has a couple of concerns. Just a few minutes ago the committee was talked to about reaching some sort of consensus. As this agenda is laid out, public comment comes at the end of the meeting. If consensus is supposed to be made on some topic, it is highly likely that public comment could be given that may change your minds. The committee



needs to decide what to do about it. When he had 50 people together for this process, they had representation of all stakeholders. On the webpage for Chapter 55, there are no zoom links for the public to follow that will allow them to give comment. Any other meetings that happen in this building you request a zoom link for public comment and are asked not to share it with anyone. If this doesn't change, we won't receive public comment from anyone. What typically happens in these rooms when there is a hearing, there is a bunch of people in the room the chair will give time for both sides to speak and if everyone hasn't had a chance to speak, they will have a chance to give their name and walk away. He is not telling us to change it but hopes we think about how we will get information from people that will take more than three minutes to give it to us. Encourages to participate in all meetings. If time goes on and numbers dwindle, and a consensus process starts and there is only a small number of people to make a recommendation to the superintendent of public instruction. The facilitator has said that Ch 55 is huge. The administrative rules drive what does and does not happen in public schools in MT. No Superintendent or locally elected district trustee wants to say that their school is not accredited. That is why it has only come close three times to lose funding. Jim Germann, said that if all of the rules go away, we won't know what to do. We won't know how many librarians to have and what the FTE should be. He was glad they were there. It resonates with some people and others it doesn't, it was profound 10 years ago. He has a concern, if we let the calendar drive the pace of the process and cannot balance it with, we need this much time to get the work done, some of you may feel disappointed. It comes with the burden of the amount of work to do in such a short amount of time. If anyone has questions, he is around and happy to help.

2. Diane Fladmo, Director of Policy, Montana Federation for Public Employees: She represents K-12 educators, higher ed. educators, licensed and unlicensed, and other public employees. Mr. Parman made a lot of the same comments she would make. She was on the BPE for many years and has gone through this process. She was on the board of trustees where she saw knowledge segregated and siloed where there is no way for everyone to get together to have a viable discussion with the time, we need to answer questions and have full discussions. Now imagine, knowing that Mr. Parman's group had 50 at the table, who is not at the table here. There are a lot of individuals not at our table. Representation from our Native American schools, teachers, and different areas of licensure. This group is probably wonderful, but in terms of representation it is small, and its time is small. Educators can't be here during the day. The people that want to be able to access and know what is in this meeting, need open access to information. Encourages us to have an evening zoom meeting or two so people can participate more readily. This is a key process and its only done every 10 years. It's important we know how our schools are doing. Say we move to a cycle of three years of accreditation, we may be able to take a deep dive in the school, but it's a long time in the life of a student. If we go that long without close scrutiny or at least the data of what is happening in that district, she sees it as an obstacle that shouldn't happen. Be transparent in this committee and don't be afraid of the challenge. Don't make it an automatic process that schools will be accredited because it is students and staff we are talking about. Don't be rushed any more than you can. Reach out to the community and talk about their roles. She will make an effort to get the word out so individuals can come talk with us. With the limitations on public input and the timing of the input it may not come to us. Her email: [dfladmo@mfpe.org](mailto:dfladmo@mfpe.org). She represents the teachers, specialists, and paraeducators. In the state. Appreciates the group for the work.

**Meeting Adjourned: 5:00 PM**