



Education Interim Committee

66th Montana Legislature

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TO: Education Interim Committee
FROM: Pad McCracken, Staff, and Laura Sankey Keip, Attorney
RE: ARM 10.55.604 - Variances to Standards
DATE: June 1, 2020

The administrative rule [10.55.604](#) (Variances to Standards) and particularly subsection (11) on the granting of charter school status has been brought up in relation to your discussion of pre-kindergarten and it may also come up in conversations about school district innovation and flexibility, so it seems worthwhile to quickly clarify what the rule does and does not do.

Standards of Accreditation

School accreditation standards are a large body of administrative rules adopted by the Board of Public Education that describe various baseline requirements schools must meet to be accredited. To paraphrase what multiple Montana court decisions have affirmed: the accreditation standards establish a foundation upon which a quality public education system is built. Appropriately they are defined in the first subsection of the first section of school law in Title 20: [20-1-101\(1\), MCA](#):

"Accreditation standards" means the body of administrative rules governing standards such as:

- (a) school leadership;
- (b) educational opportunity;
- (c) academic requirements;
- (d) program area standards;
- (e) content and performance standards;
- (f) school facilities and records;
- (g) student assessment; and
- (h) general provisions.

Examples of accreditation standards are:

- minimum graduation requirements in [10.55.905](#);
- the requirement that trustees adopt hazard and emergency plans in [10.55.721](#);

- elementary class size requirements in [10.55.712](#);
- requirements that schools have library media specialists in FTE amounts proportional to the school's enrollment in [10.55.709](#); and
- content standards and performance descriptors for various content areas in [Title 10](#), chapters 53 and 54 of the Administrative Rules of Montana (ARM).

Variances to Accreditation Standards under 10.55.604

The variance to standards rule in 10.55.604 provides a mechanism through which schools can seek approval to not meet a standard or set of standards, similar to waivers to federal regulations that are issued from time to time by the U.S. Department of Education. Some standards are off limits, prohibited from being granted a variance. They include standards addressing statutory requirements, educator licensure and endorsement, and the content standards.

Under the rule, a district first applies to a review board. Currently the Variance to Standards Review Board is chaired by our chairman, Rep. Anderson. The board provides recommendations to the Superintendent of Public Instruction, who then provides to the Board of Public Education a recommendation for approval, modification, or rejection of the review board's recommendation. The final decision to grant a variance rests with the Board of Public Education. The variances most often sought by districts are to have fewer library media specialist FTE than required in the standards.¹

Creation of a charter school under 10.55.604(11)

Subsection (11) of 10.55.604 outlines the process and parameters for a school district applying to create a charter school or program. The Board of Public Education approving a charter school or program in and of itself provides a district with no additional flexibility in operating the charter school or program than the district would have without the approval. A district seeking charter status may seek variances as part of its charter application identical to and in the same manner as any other district seeking variances without charter status. It is not clear that the granting of charter status in and of itself under 10.55.604(11) has any meaningful effect.

Education Interim Committee
June 18-19, 2020
Arm Variances to Standards
Exhibit 30

¹ Information on the Variance to Standards process can be found at <http://opi.mt.gov/Leadership/Assessment-Accountability/School-Accreditation/Variances-to-Standards>