



Education Interim Committee

68th Montana Legislature

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TO: Education Interim Committee
FROM: Pad McCracken, Committee Staff
RE: HB 214 implementation and districts operating outside their boundaries
DATE: September 10, 2023

I apologize for the lateness of this addition to our September agenda. I was informed that aspects of this issue may still be unresolved despite the passage of [HB 214](#) (Bertoglio; 2023) and because of the time-sensitive nature of some of these issues (county retirement mills being set; enrollment counts for ANB the first Monday of October) and the fact that this issue has been wrestled with by the Education Interim Committee since the 2017-2018 Interim, I contacted Chair Salomon who instructed me to add this to the agenda. I won't try to explain all the intricacies of the issue in this memo, but will refer you to a [memo](#) from March 1, 2022.

Fundamentally, the question that the passage of HB 214 answered was:

Under what conditions may a school district ("nonlocated district") provide in-person instruction to public schoolchildren outside the district's boundaries?

HB 214 established that the only method by which a district may provide instruction in this scenario is under a multidistrict agreement entered into with the "district of residence" in which the schoolchildren reside, with:

- the schools or offsite instructional settings remaining "of" the district of residence and therefore under the supervision and control of the trustees of the district of residence;
- the children attending the school/setting being included in enrollment counts of the district of residence; and
- the districts negotiating the terms of the agreement to address how and in what amount the district providing education will be reimbursed for the outlay of its expenses.

HB 214 addressed several school funding issues as well as a question about special education cooperative responsibility for providing services to children with IEPs at the school/setting.

HB 214 *may* have failed to clearly address an issue related to the funding of retirement contributions *if* the multidistrict agreement involves the nonlocated district employing teachers to provide instruction at the school/setting *and* the two districts are in different counties.

I am including a map with this memo that will likely help you understand the dynamic in Liberty and Toole counties better, but a similar dynamic may exist in other locations.

Liberty EL is apparently providing instruction outside its boundary and within CJI's at Riverview Colony (and perhaps at another location at HiLine Colony) without a multidistrict agreement with CJI which raises these questions (and perhaps others):

1. Is this allowed? Is it lawful for Liberty EL to expend public funds for the education children at Riverview? Can Riverview be viewed as public school/setting?
2. Will the children at Riverview be included in public school enrollment counts this fall? Which district's, if either?
3. If the teachers are employees of Liberty EL are they mandatory members of TRS, even if teaching out of district at a nonpublic setting?

Liberty EL is providing instruction at Hillside and Rimrock under a multidistrict agreement with Sunburst K-12 District as envisioned under HB 214. However, this crosses district, county, and special ed co-op boundaries which raises these questions (and perhaps others):

4. Is it clear to both districts and OPI that these schools/settings remain Sunburst's and that the children at these schools/settings may only be included in Sunburst's enrollment counts?
5. Is it clear to both districts and to both Bear Paw and Big Sky special education cooperatives that as children enrolled at Sunburst, only Big Sky cooperative has responsibilities for providing special education services to children at Hillside and Rimrock?
6. If the teachers providing instruction at Hillside and Rimrock are employees of Liberty EL, are the costs of retirement contributions of teachers serving Toole County children being borne by the taxpayers of Liberty County? Is this fair? If not, how might this be addressed?

I have asked OPI to address questions 1, 2, and 4 with the committee as they seem most pressing.

I have sent this memo to OPI, TRS, District Superintendents at Sunburst K-12, Liberty EL, and CJI, the Liberty and Toole County Superintendents, and to the directors of Big Sky and Bear Paw Cooperatives.

