



Montana Legislative Services Division

Office of Research and Policy Analysis

TO: Education Interim Budget Committee and Education Interim Committee
FROM: Pad McCracken, LSD Research Analyst
RE: Process for adoption of accreditation standards
DATE: March 1, 2022

During discussions with education stakeholders of the preliminary bill draft addressing the process for adoption of accreditation standards under 20-7-101, a fundamental question surfaced about whether implementation of all of the the content area standards is required for all schools or whether some standards are up to the discretion of local trustees. Chairman Bedey requested information on the statutory framework and administrative rules related to this question and some revisions to the preliminary bill draft presented to the EIBC in December 2021. The earlier bill draft was included in a previous memo which provides some initial background on this topic.

"Accreditation standards" is defined in 20-1-101, MCA:

20-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "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.

...

Accreditation standards and Montana's basic system of free quality public elementary and secondary schools

From 20-9-309, MCA:

(2) As used in this section, a "basic system of free quality public elementary and secondary schools" means:

(a) **the educational program specified by the accreditation standards provided for in 20-7-111, which represent the minimum standards upon which a basic system of free quality public elementary and secondary schools is built;**

20-7-111. Instruction in public schools. (1) Except as provided in subsection (2), **the board of public education shall define and specify the basic instructional program for pupils in public schools, and this program must be set forth in the standards of accreditation. Other instruction may be given when approved by the board of trustees.**

(2) The trustees of a school district shall ensure that all pupils in grades 3 through 12 receive instruction about the United States constitution and the pledge of allegiance.

The "basic instructional program" (called basic educational program in rule) for elementary, middle grades, and high school can be found in ARM:

<https://rules.mt.gov/gateway/RuleNo.asp?RN=10%2E55%2E901>

<https://rules.mt.gov/gateway/RuleNo.asp?RN=10%2E55%2E902>

<https://rules.mt.gov/gateway/RuleNo.asp?RN=10%2E55%2E904>

Each of these rules includes language describing the basic educational program as "enabling students to meet the content standards and content-specific grade-level learning progressions."

What are the content standards?

10.53.101 EXPLANATION OF THE CONTENT STANDARDS

(1) The content standards shall be used by school districts to develop local curriculum and assessment in all the content areas including:

- (a) English language proficiency;
- (b) English language arts and literacy;
- (c) mathematics;
- (d) arts;
- (e) health and physical education;
- (f) science;
- (g) career and technical education;
- (h) computer science;
- (i) library media and information literacy;
- (j) social studies; and
- (k) technology integration.

(2) The K-12 content standards describe what students shall know, understand, and be able to do in these content standards. These K-12 standards define end-of-year expectations and a cumulative progression designed to enable students to meet college and career readiness expectations no later than the end of high school.

10.53.103 DEFINITIONS

(1) "Content standard" means what all students should know, understand, and be able to do in each of the content areas in this chapter.

The language in the two rules above seems clear that all the content standards are for all schools and all students, but considering the perception among many in the education community that only some of the content standards are required, the Board of Public Education may want to revisit these and other rules. This may help distinguish between the Board's constitutional authority to "exercise general supervision over the public school system" and the "supervision and control of schools in each district" constitutionally vested in local school boards.

The revised bill draft attached adds the phrase "For any accreditation standard that requires implementation by school districts..." on page 1, lines 20 and 21, and page 3, lines 6 and 7. This language is designed to allow the Board of Public Education to address the question of whether some standards are discretionary and clarify its rules without the need to change statute again.

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCESS FOR ADOPTION OF SCHOOL
6 ACCREDITATION STANDARDS; INCLUDING A REQUIREMENT THAT ECONOMIC IMPACT STATEMENTS
7 FOR CERTAIN ACCREDITATION STANDARDS INCLUDE AN ANALYSIS OF THE TIME REQUIRED FOR
8 IMPLEMENTATION; REASSIGNING THE REVIEW OF ECONOMIC IMPACT STATEMENTS TO
9 LEGISLATIVE BUDGET COMMITTEES; REASSIGNING THE REQUIREMENT TO SEEK FUNDING WHEN
10 NECESSARY FROM THE BOARD OF PUBLIC INSTRUCTION TO THE SUPERINTENDENT OF PUBLIC
11 INSTRUCTION; AMENDING SECTION 20-7-101, MCA; PROVIDING EFFECTIVE DATES; PROVIDING A
12 TERMINATION DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15

16 **Section 1.** Section 20-7-101, MCA, is amended to read:

17 **"20-7-101. ~~Standards of accreditation~~ Accreditation standards -- process for adoption.** (1)
18 ~~Standards of accreditation~~ (a) Accreditation standards, as defined in 20-1-101, for all schools must be adopted
19 by the board of public education upon the recommendations of the superintendent of public instruction. The
20 superintendent shall develop recommendations in accordance with subsection (2). ~~The~~ For any accreditation
21 standard that requires implementation by school districts, the recommendations presented to the board must
22 include an economic impact statement, as described in 2-4-405, prepared in consultation with the negotiated
23 rulemaking committee under subsection (2).

24 (b) For accreditation standards addressing academic requirements, program area standards, or
25 content and performance standards, the economic impact statement under subsection (1)(a) must include an
26 analysis of the ability of school districts to implement the standard within existing resources, including time. The
27 intent of this subsection (1)(b) is to ensure that school districts have the capacity to adhere to required
28 accreditation standards within a basic system of free quality public elementary and secondary schools.

1 (2) The accreditation standards recommended by the superintendent of public instruction must be
2 developed through the negotiated rulemaking process under Title 2, chapter 5, part 1. The superintendent may
3 form a negotiated rulemaking committee for accreditation standards to consider multiple proposals. The
4 negotiated rulemaking committee may not exist for longer than 2 years. The committee must represent the
5 diverse circumstances of schools of all sizes across the state and must include representatives from the
6 following groups:

- 7 (a) school district trustees;
- 8 (b) school administrators;
- 9 (c) teachers;
- 10 (d) school business officials;
- 11 (e) parents; and
- 12 (f) taxpayers.

13 (3) Prior to adoption or amendment of any accreditation standard, the board shall submit each
14 proposal, including the economic impact statement required under subsection (1), to:

- 15 (a) during a regular legislative session, the joint appropriations subcommittee for education; or
- 16 (b) during the legislative interim, the education interim budget committee, established in 5-12-501, for
17 review at least 1 month in advance of a scheduled committee meeting. Information provided during an interim
18 must be provided to the legislature in accordance with 5-11-210.

19 (4) Unless the expenditures by school districts required under the proposal are determined by the
20 education interim appropriate committee under subsection (3) to be insubstantial expenditures that can be
21 readily absorbed into the budgets of existing district programs, the board may not implement the standard until
22 July 1 following the next regular legislative session under subsection (3)(b) or the current legislative session
23 under subsection (3)(a) and the superintendent of public instruction shall request that the same legislature fund
24 implementation of the proposed standard.

25 (5) The provisions of this section may not be construed to reduce or limit the authority of the
26 education interim committee to review administrative rules, including accreditation standards, within its
27 jurisdiction pursuant to 5-5-215.

28 ~~(5)(6)~~ Standards for the retention of school records must be as provided in 20-1-212."

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Section 2. Section 20-7-101, MCA, is amended to read:

"20-7-101. ~~Standards of accreditation.~~ Accreditation standards -- process for adoption. (1)

~~Standards of accreditation~~ (a) Accreditation standards, as defined in 20-1-101, for all schools must be adopted by the board of public education upon the recommendations of the superintendent of public instruction. The superintendent shall develop recommendations in accordance with subsection (2). ~~The~~ For any accreditation standard that requires implementation by school districts, the recommendations presented to the board must include an economic impact statement, as described in 2-4-405, prepared in consultation with the negotiated rulemaking committee under subsection (2).

(b) For accreditation standards addressing academic requirements, program area standards, or content and performance standards, the economic impact statement under subsection (1)(a) must include an analysis of the ability of school districts to implement the standard within existing resources, including time. The intent of this subsection (1)(b) is to ensure that school districts have the capacity to adhere to required accreditation standards within a basic system of free quality public elementary and secondary schools.

(2) The accreditation standards recommended by the superintendent of public instruction must be developed through the negotiated rulemaking process under Title 2, chapter 5, part 1. The superintendent may form a negotiated rulemaking committee for accreditation standards to consider multiple proposals. The negotiated rulemaking committee may not exist for longer than 2 years. The committee must represent the diverse circumstances of schools of all sizes across the state and must include representatives from the following groups:

- (a) school district trustees;
- (b) school administrators;
- (c) teachers;
- (d) school business officials;
- (e) parents; and
- (f) taxpayers.

(3) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal, including the economic impact statement required under subsection (1), to:

1 (a) during a regular legislative session, the joint appropriations subcommittee for education; or
2 (b) during the legislative interim, the ~~education interim legislative finance~~ committee, established in 5-
3 12-201, for review at least 1 month in advance of a scheduled committee meeting. Information provided during
4 an interim must be provided to the legislature in accordance with 5-11-210.

5 (4) Unless the expenditures by school districts required under the proposal are determined by the
6 ~~education interim appropriate~~ committee under subsection (3) to be insubstantial expenditures that can be
7 readily absorbed into the budgets of existing district programs, the board may not implement the standard until
8 July 1 following the next regular legislative session under subsection (3)(b) or the current legislative session
9 under subsection (3)(a) and the superintendent of public instruction shall request that the same legislature fund
10 implementation of the proposed standard.

11 (5) The provisions of this section may not be construed to reduce or limit the authority of the
12 education interim committee to review administrative rules, including accreditation standards, within its
13 jurisdiction pursuant to 5-5-215.

14 ~~(5)(6)~~ Standards for the retention of school records must be as provided in 20-1-212."
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16 NEW SECTION. Section 3. Effective dates. (1) Except as provided in subsection (2), [this act] is
17 effective on passage and approval.

18 (2) [Section 2] is effective January 1, 2026.
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20 NEW SECTION. Section 4. Termination. [Section 1] terminates December 31, 2025.
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