

# Montana Code Annotated 2015

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## Constitution of Montana -- Article X -- EDUCATION AND PUBLIC LANDS

**Section 1. Educational goals and duties.** (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

*Provided by Montana Legislative Services*

**20-2-121. Board of public education -- powers and duties.** The board of public education shall:

(1) effect an orderly and uniform system for teacher certification and specialist certification and for the issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and 20-4-111;

(2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial of teacher or specialist certification in accordance with the provisions of 20-4-110;

(3) administer and order the distribution of BASE aid in accordance with the provisions of 20-9-344;

(4) adopt and enforce policies to provide uniform standards and regulations for the design, construction, and operation of school buses in accordance with the provisions of 20-10-111;

(5) adopt policies prescribing the conditions when school may be conducted on Saturday and the types of pupil-instruction-related days and approval procedure for those days in accordance with the provisions of 20-1-303 and 20-1-304;

(6) adopt standards of accreditation and establish the accreditation status of every school in accordance with the provisions of 20-7-101 and 20-7-102;

(7) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of 20-7-201;

(8) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;

(9) adopt rules for issuance of documents certifying equivalency of completion of secondary education in accordance with 20-7-131;

(10) adopt policies for the conduct of programs for gifted and talented children in accordance with the provisions of 20-7-903 and 20-7-904;

(11) adopt rules for student assessment in the public schools; and

(12) perform any other duty prescribed from time to time by this title or any other act of the legislature.

**20-7-901. Definitions.** As used in this part the following definitions apply:

(1) "Gifted and talented children" means children of outstanding abilities who are capable of high performance and require differentiated educational programs beyond those normally offered in public schools in order to fully achieve their potential contribution to self and society. The children so identified include those with demonstrated achievement or potential ability in a variety of worthwhile human endeavors.

(2) "Professionally qualified persons" means teachers, administrators, school psychologists, counselors, curriculum specialists, artists, musicians, and others with special training who are qualified to appraise pupils' special competencies.

**20-7-902. School district programs to identify and serve the gifted and talented child.** (1) A school district may identify gifted and talented children and devise programs to serve them.

(2) In identifying gifted and talented children, the school district shall:

(a) consult with professionally qualified persons and the parents of children being evaluated;

(b) consider a child's demonstrated or potential gifts or talents; and

(c) use comprehensive and appropriate assessment methods including objective measures and professional assessment measures.

**20-7-903. Programs to serve gifted and talented children -- compliance with board policy --**

**funding.** (1) The conduct of programs to serve gifted and talented children must comply with the policies recommended by the superintendent of public instruction and adopted by the board of public education.

(2) Proposals approved by the superintendent of public instruction in accordance with policies of the board of public education must be funded by money appropriated to the superintendent for that purpose.

(3) A school district shall match funds provided by the superintendent for a gifted and talented children's program with equal funds from other sources. "In kind" contributions may not be used to constitute such a match. Funds must be administered by the school district as provided in 20-9-507.

(4) The superintendent of public instruction may deduct reasonable costs of administration from the funds appropriated for the purposes of this part.

**20-7-904. Review and recommendations of proposals.** (1) The policies of the board of public education must assure that program proposals submitted by school districts to the superintendent of public instruction contain:

(a) evidence that identification procedures are comprehensive and appropriate;

(b) a program description including stated needs and measurable objectives designed to meet those needs;

(c) evidence that the activities are appropriate and will serve to achieve the program objectives; and

(d) a method to evaluate the effectiveness of the program.

(2) School districts may request assistance from the staff of the superintendent in formulating program proposals.

(3) The superintendent of public instruction shall supervise and coordinate the programs for gifted and talented children by:

(a) recommending to the board of public education the adoption of those policies necessary to establish a planned and coordinated program; and

(b) establishing a procedure for review and approval of program proposals.

**20-9-309. Basic system of free quality public elementary and secondary schools defined -- identifying educationally relevant factors -- establishment of funding formula and budgetary structure -- legislative review.** (1) Pursuant to Article X, section 1, of the Montana constitution, the legislature is required to provide a basic system of free quality public elementary and secondary schools throughout the state of Montana that will guarantee equality of educational opportunity to all.

(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;

(b) educational programs to provide for students with special needs, such as:

(i) a child with a disability, as defined in 20-7-401;

(ii) an at-risk student;

(iii) a student with limited English proficiency;

(iv) a child who is qualified for services under 29 U.S.C. 794; and

(v) **gifted and talented children, as defined in 20-7-901;**

(c) educational programs to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5, through development of curricula designed to integrate the distinct and unique cultural heritage of American Indians into the curricula, with particular emphasis on Montana Indians;

(d) qualified and effective teachers or administrators and qualified staff to implement the programs in subsections (2)(a) through (2)(c);

(e) facilities and distance learning technologies associated with meeting the accreditation standards;

(f) transportation of students pursuant to Title 20, chapter 10;

(g) a procedure to assess and track student achievement in the programs established pursuant to subsections (2)(a) through (2)(c); and

(h) preservation of local control of schools in each district vested in a board of trustees pursuant to Article X, section 8, of the Montana constitution.

(3) In developing a mechanism to fund the basic system of free quality public elementary and secondary schools and in making adjustments to the funding formula, the legislature shall, at a minimum, consider the following educationally relevant factors:

(a) the number of students in a district;

(b) the needs of isolated schools with low population density;

(c) the needs of urban schools with high population density;

(d) the needs of students with special needs, such as a child with a disability, an at-risk student, a student with limited English proficiency, a child who is qualified for services under 29 U.S.C. 794, and **gifted and talented children;**

(e) the needs of American Indian students; and

(f) the ability of school districts to attract and retain qualified educators and other personnel.

(4) The legislature shall:

(a) determine the costs of providing the basic system of free quality public elementary and secondary schools;

(b) establish a funding formula that:

(i) is based on the definition of a basic system of free quality public elementary and secondary schools and reflects the costs associated with providing that system as determined in subsection (4)(a);

(ii) allows the legislature to adjust the funding formula based on the educationally relevant factors identified in this section;

(iii) is self-executing and includes a mechanism for annual inflationary adjustments;

(iv) is based on state laws;

(v) is based on federal education laws consistent with Montana's constitution and laws; and

(vi) distributes to school districts in an equitable manner the state's share of the costs of the basic system of free quality public elementary and secondary schools; and

(c) consolidate the budgetary fund structure to create the number and types of funds necessary to provide school districts with the greatest budgetary flexibility while ensuring accountability and efficiency.

(5) At least every 10 years, the legislature shall form the school funding interim commission pursuant to 5-20-301 for the purpose of reassessing the state's school funding formula.

**10.55.804** GIFTED AND TALENTED

(1) Districts shall provide educational services to gifted and talented students that are commensurate to their needs, and foster a positive self-image.

(2) Each district shall comply with all federal and state laws and regulations addressing gifted education.

(3) Each district shall provide structured support and assistance to teachers in identifying and meeting the diverse student needs of gifted and talented students, and shall provide a framework for considering a full range of alternatives for addressing student needs.

History: [20-2-114](#), MCA; [IMP](#), [20-2-121](#), MCA; [NEW](#), 1989 MAR p. 342, Eff. 7/1/89; [AMD](#), 2000 MAR p. 3340, Eff. 12/8/00; [AMD](#), 2012 MAR p. 2042, Eff. 7/1/13; [AMD](#), 2013 MAR p. 961, Eff. 6/7/13.

	Fiscal 2016			Fiscal 2017							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other

**E. EDUCATION**

OFFICE OF PUBLIC INSTRUCTION (35010)

1.	State Level Activities (06)											
	10,898,175	251,479	18,369,111	0	0	29,518,765	10,893,741	251,284	18,571,066	0	0	29,716,091
a.	Montana Digital Academy (Restricted/Biennial/OTO)											
	832,500	0	0	0	0	832,500	832,500	0	0	0	0	832,500
b.	Audiological Services (Restricted/Biennial/OTO)											
	86,907	0	0	0	0	86,907	101,308	0	0	0	0	101,308
2.	Local Education Activities (09)											
	0	817,125	149,093,391	0	0	149,910,516	0	817,125	150,235,391	0	0	151,052,516
a.	Advancing Agricultural Education (Restricted/Biennial)											
	127,393	0	0	0	0	127,393	127,395	0	0	0	0	127,395
b.	In-State Treatment (Restricted/Biennial)											
	787,800	0	0	0	0	787,800	787,800	0	0	0	0	787,800
c.	Secondary Vo-ed (Restricted/Biennial)											
	1,500,000	0	0	0	0	1,500,000	1,500,000	0	0	0	0	1,500,000
d.	Adult Basic Education (Restricted/Biennial)											
	525,000	0	0	0	0	525,000	525,000	0	0	0	0	525,000
e.	Gifted and Talented (Restricted/Biennial)											
	250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000