

1 \_\_\_\_\_ **School District**

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3 **STUDENTS**

3210

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5 Equal Education, Nondiscrimination and Sex Equity

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7 The District will make equal educational opportunities available for all students without regard to race,  
8 color, national origin, ancestry, sex, ethnicity, language barrier, religious belief, physical or mental  
9 handicap or disability, economic or social condition, actual or potential marital or parental status, **or, in**  
10 **accordance with binding guidance of the Federal Office of Civil Rights regarding the scope of Title**  
11 **IX's sex discrimination prohibition, gender identity, sexual orientation, or failure to conform to**  
12 **stereotypical notions of masculinity or femininity.**

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14 No student, on the basis of sex **or, in accordance with binding guidance of the Federal Office of Civil**  
15 **Rights regarding the scope of Title IX's sex discrimination prohibition, gender identity, sexual**  
16 **orientation, or failure to conform to stereotypical notions of masculinity or femininity** will be denied  
17 equal access to programs, activities, services, or benefits or be limited in the exercise of any right,  
18 privilege, or advantage, or denied equal access to educational and extracurricular programs and activities.

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20 Inquiries regarding discrimination or intimidation should be directed to the District Title IX Coordinator.  
21 Any individual may file a complaint alleging violation of this policy by following the Uniform Complaint  
22 Procedure (Policy 1700).

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24 The District, in compliance with federal regulations, will notify annually all students, parents, staff, and  
25 community members of this policy and the designated coordinator to receive inquiries. This annual  
26 notification will include the name and location of the coordinator and will be included in all handbooks.

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28 The District will not tolerate hostile or abusive treatment, derogatory remarks, or acts of violence against  
29 students, staff, or volunteers with disabilities. The District will consider such behavior as constituting  
30 discrimination on the basis of disability, in violation of state and federal law.

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33 Cross Reference: 1700 Uniform Complaint Procedure

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35 Legal Reference: Art. X, Sec. 7, Montana Constitution- Nondiscrimination in education  
36 § 49-2-307, MCA Discrimination in education  
37 24.9.1001, et seq., ARM Sex Discrimination in Education  
38 **Title IX of the Educational Amendments, 20 U.S.C. § 1681, et seq.**  
39 **34 CFR Part 106 Nondiscrimination on the basis of sex in**  
40 **education programs or activities receiving**  
41 **Federal financial assistance**

42 **OCR's Questions and Answers on Title IX and Sexual Violence:**  
43 **<http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>**

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45 Policy History:

46 Adopted on:

47 Reviewed on:

48 Revised on:



# Policy Notes

November 2014

A PUBLICATION OF THE MONTANA SCHOOL BOARDS  
ASSOCIATION POLICY SERVICES – JOE BROTT, DIRECTOR

*This edition of Policy Notes provides an explanation of the changes to mandatory, recommended, and optional policies contained in the MTSBA Master Policy Manual. A summary of the changes to affected policies is listed below.*

## Revised Policies

**BP 1310-District Policy and Procedures.** There has always been a "myth" that policy adoption or revision requires three readings. There is not any law that requires any number of readings to adopt, revise, or delete a policy. Recommendation from MTSBA has always been to make sure the people in your community have been given adequate notice (board agenda) that a policy is up for adoption, revision or deletion and that the people attending that meeting have an opportunity to make a comment before a vote is taken to adopt, revise, or delete. With that in mind, MTSBA staff has developed OPTIONAL language a district may insert in Policy 1310 to adopt or revise a policy on one reading. Policy 1310-lines 11-16: Any written statement by a person, relative to a proposed policy or amendment, should be directed to the District Clerk prior to the second (2<sup>nd</sup>) reading [final reading]. The final vote for adoption shall take place not earlier than at the second (2<sup>nd</sup>) reading of the particular policy. [New or revised policies that are required, or have required language changes based on State or Federal law, or are required changes by administrative rule, may be adopted after the first (1<sup>st</sup>) reading if sufficient notice has been given through the board agenda.] This last language (in red) would allow districts to approve language to revisions or new policies, on one reading, that are required by law. Example: the 2015 Legislature passes a bill that requires only 2 counts for ANB instead of the 3 counts we have currently. A board could approve the revision (changing 3 counts to 2 counts) in Policy 3121P on one reading.

## BP 2410P-High School Graduation

**Requirements.** The RECOMMENDED language change in this policy is consistent with the language in 20-9-313, MCA. The question that comes up is: If we have approved for a student to graduate early at the end of the 5<sup>th</sup> semester (middle of junior year) is the district eligible to receive ANB for that student until the end of that year? The answer is yes. MTSBA did not feel the model policy was clear therefore we clarified the provision through policy. Lines 19-26: In accordance with provisions of § 20-9-313, MCA, the Board hereby authorizes the high school principal to grant permission to students who have completed the minimum requirements for graduation after completion of the seventh (7<sup>th</sup>) semester the ANB of a school may be increased when a high school district provides early graduation for a student who completes graduation requirements in less than eight semesters or the equivalent amount of secondary school enrollment. The increase must be established by the trustees as though the student had attended to the end of the school fiscal year and must be approved, disapproved, or adjusted by the superintendent of public instruction.

The last paragraph conforms to 20-9-213, MCA. The Board hereby authorizes the [high school principal] [superintendent] [administration] to grant permission to [recommend to the Board for early graduation] students who have completed the minimum requirements for graduation in less than eight semesters.

**BP 3210-Equal Education, Nondiscrimination and Sex Equity.** The Federal Office of Civil Rights has binding guidance regarding the scope of Title IX's sex discrimination prohibition. At this time,

CONT. TO 2<sup>ND</sup> PAGE

MTSBA felt compelled to include that language in the model Nondiscrimination and Sex Equity policy. MTSBA considers this a REQUIRED change in policy. Legal references were also added to support the language change. The following language was added in the first and second paragraphs of this policy: ... , or, in accordance with binding guidance of the Federal Office of Civil Rights regarding the scope of Title IX's sex discrimination prohibition, gender identity, sexual orientation, or failure to conform to stereotypical notions of masculinity or femininity.

**BP 3231-Search and Seizures.** Some recent issues in Montana have led to this RECOMMENDED revision of the Search and Seizures policy. Although it may seem obvious, this additional language will guide school officials and/or employees of the proper procedure to follow if conducting a search of a student. This additional language would go on lines 31-32 of Policy 3231. The "pat down" or "search" of a student, if conducted, will be conducted by a school official or employee of the same gender as the student being searched.

**BP 3600P-Students Records Procedure.** A few school districts in Montana have come under challenge of student records. Questions have been asked of MTSBA as to the procedures for student record challenges. After extensive research in C.F.R. 99 we revised the Student Record Challenges section of Policy 3600P, page 5 of 5, to clarify the process and procedures for parents or an eligible student. We RECOMMEND districts make this change.

**BP 5336-Compensatory Time and Overtime.** The language added in this policy is OPTIONAL. Many districts have classified employees filling more than one position within the district. The issue in these cases deals with overtime and at what hourly rate they are paid for overtime. This "blended time" language is one way of determining overtime and at what hourly salary it is to be paid. If your district already has a formula used for determining how to pay overtime for this type of employee, you would not need this new language unless you want to change.

#### Blended Time

*Classified Employees working two or more jobs for the District at different rates of pay shall be paid overtime at a weighted average of the differing*

*wages. This shall be determined by dividing the total regular remuneration for all hours worked by the number of hours worked in that week to arrive at the weighted average. One half that rate is then multiplied times the number of hours worked over 40 to arrive at the overtime compensation due.*

*Example: Employee works one job at 30 hrs./week at \$10.00/hr. The same employee works a different job at 20 hrs./week at \$12.00/hr. (Same district). The employee would get \$300.00 per week for the 30 hr/week job (\$10.00X30) and \$240.00 per week for the 20 hr./week job (\$12.00X20). A total of \$540.00 (regular remuneration). Divide \$540.00 by 50(total hours worked) = \$10.8/hr (weighted average). One-half that rate ( $\$10.80/2 = \$5.40$ ) is multiplied by 10 (number of hours over 40). \$54.00 is the amount of overtime compensation due the employee based on the "blended time."*

## New Policies

**BP 5125-Whistle Blowing and Retaliation.** This is a RECOMMENDED policy. Many districts are being asked if they have a "whistle blowing" policy. MTSBA did not have a model and felt it was time to develop one. Even though there are other policies which may mention retaliation, etc., this policy is one which would be asked for in case of litigation on discrimination.

## Point of Policy

The future looks bright for MTSBA's policy section on the website. Access to policies will become more user friendly as well as re-establishing the "search" function. We are also contemplating using "flipbook" as the program for policies. I will keep everyone updated on the progress as well as sending out instructions for accessing and using the new program.

MTSBA is also in the process of developing language guiding school districts on Best Practices for Serving Transgender and Gender Non-conforming Students in the daily education setting and extracurricular activities.

**Fort Benton School District****STUDENTS**

3210

Equal Education, Nondiscrimination and Sex Equity

Equal educational opportunities shall be available for all students without regard to race, color, national origin, ancestry, sex, ethnicity, language barrier, religious beliefs, physical and mental handicap or disability, economic or social conditions, or actual or potential marital or parental status or status as a homeless child. Any student may file a discrimination grievance using the procedure that follows this policy.

No student shall, on the basis of sex, be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, or advantage, or denied equal access to educational and extracurricular programs and activities.

Inquiries regarding discrimination or intimidation should be directed to the District Title IX Coordinator. An individual with a complaint alleging a violation of this policy shall follow the Uniform Grievance Procedure.

In compliance with federal regulations, the District will notify annually all students, parents, staff, and community members of this policy and the designated coordinator to receive inquiries. Notification should include the name and location of the coordinator and will be carried in all handbooks.

The District will not tolerate hostile or abusive treatment, derogatory remarks, or acts of violence because of disability against students, staff, or volunteers with disabilities. The District considers this behavior to constitute discrimination on the basis of disability, in violation of state and federal law.

Legal Reference: Art. X, Sec. 7, Montana Constitution – Nondiscrimination in education  
 § 49-2-307, MCA Discrimination in education  
 24.9.1001, et seq., ARM Sex discrimination in education  
 No Child Left Behind Act of 2001 (P.L. 107-110)

Policy History:

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Revised on:

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