



Office of the Superintendent
Billings Public Schools
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Billings, Montana 59101-1298
Phone: (406) 281-5065 Fax: (406) 281-6187

March 28, 2022

*Sent via Electronic Mail and
Certified Mail, Return Receipt Requested*

Ms. Jana Pennington
5859 Ironwood Drive
Billings, MT 59106
janainmontana@gmail.com

Re: Request to Be on Board Agenda

Dear Ms. Pennington,

Thank you for taking the time to reach out to me about being placed on the agenda for a meeting of Billings Public Schools' Board of Trustees. I appreciate your staunch advocacy on behalf of your daughter. Pursuant to School District Policy 1420, which you can find on the School District's website, I will submit your request to be on the agenda to the agenda setting committee (also called the Board Operations Committee) at its next meeting (Tuesday, April 5 at 11:30 a.m. via Zoom). That committee will determine whether to place your requested agenda item on the full board's agenda. However, I want you to know I will be recommending that the committee deny your request for the reasons that follow.

As you know, School District Policy 2050 governs the enrollment of students in Billings Public Schools. That policy categorically denies enrollment to "any person who has reached age 19 on or before September 10 of the year to be enrolled." The policy does not allow exception or waiver of this denial of enrollment, and because your daughter will turn 19 prior to September 10 this fall, Policy 2050 forecloses your daughter continued enrollment.

I have carefully reviewed your letter and the information you provided. While you are correct that House Bill 233 (since codified at Mont. Code Ann. § 20-9-311(7)) allows school districts to receive some funding from the state for the provision of special education services to certain students between the ages of 19 and 22, it does not require a school district to provide such services. That is to say, HB 233 did not amend the underlying statute articulating when schools are required to enroll students (Mont. Code Ann. § 20-5-101). School districts set their own budgets and adopt their own policies within the boundaries of the law and constitution. If a statute is permissive, like the one created by HB 233, a school district is not obligated to change its policy. In other words, Billings Public Schools has not changed Policy 2050 and enforcement of it as-written is compliant with Montana law.

Furthermore, I will note that you have been aware since your daughter's first IEP in April of 2010, when she was in kindergarten, that your family's decision to have her repeat kindergarten will cause her to age out before a fourth year of high school is completed. This fact was

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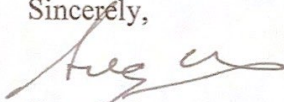
discussed repeatedly over the course of your daughter's education, including in March of 2016, where the IEP team discussed with your family the option of advancing your daughter ahead a year. That option would have provided her with an additional year of high school for vocational training and transitional services. After reviewing the options with the IEP team, your family made the decision to reject the District's recommendation to advance your daughter forward a year.

I understand from your letter that your family believes it made the right decision to not advance your daughter. That is within your prerogative as a parent to make these decisions for your child.

Lastly, to reiterate an earlier point: the plain language of School District Policy 2050 does not provide me, any of our administrators, or the Board of Trustees the authority to grant a waiver of the policy for a 19-year-old who wishes to continue enrollment. Consequently, there is no need to place this issue on the agenda for a board meeting because there is no viable board action to be taken. Simply put, Policy 2050 does not permit the Board to grant your request at this time.

As always, you are free to attend any board meeting or send letters to provide public comment if you believe the School District should change its current policies and procedures.

Sincerely,



Greg Upham
Superintendent

Copy: Board of Trustees