



ADMINISTRATIVE RULES OF MONTANA



10.10.301B OUT-OF-DISTRICT ATTENDANCE AGREEMENTS

- (1) For purposes of this rule:
 - (a) a child's guardian means an adult who is responsible for the child and has the reciprocal rights, duties and responsibilities with the child and whose status is created and defined by law;
 - (b) placement by a court of competent jurisdiction includes federal and state district courts, tribal courts, and youth courts established pursuant to Title 41, chapter 5, MCA; and
 - (c) for the purpose of this rule placement by a "state agency" includes placement by tribal agencies, the Department of Corrections or the Department of Public Health and Human Services. Placement by a state agency does not include placement by a private or not-for-profit entity under contract with the Department of Corrections or the Department of Public Health and Human Services.
- (2) Out-of-district attendance agreements must establish the charges, if any, for both tuition and transportation, and the parties who will be responsible for payment. Tuition charges must comply with ARM 10.10.301 and Title 20, chapter 5, MCA.
- (3) Discretionary out-of-district agreements must be signed by the student's parent or guardian who initiates the request, the board chair or board designee of the district of attendance, and the board chair or board designee of the district of residence.
 - (a) The district of attendance is not obligated for, but may discretionarily cover, the transportation costs of an approved attendance agreement.
- (4) For mandatory out-of-district attendance agreements, pursuant to 20-5-321, MCA, the district of residence and the district of attendance must accept the request for the student to attend unless the exceptions in 20-5-321, MCA, apply.
- (5) The exceptions in (4) do not apply if the student is a pupil with disabilities who lives in the district where they wish to attend. If the student is a pupil with disabilities who lives in the district of attendance, the district of attendance must accept the request, regardless of the legal residence of the student.
- (6) For purposes of attendance agreements per Title 20, chapter 5, MCA, "transportation" must include, but may not be limited to, the offering or provision of:
 - (a) bus service;
 - (b) an individual transportation contract; or
 - (c) room and board reasonably near the school.

- (7) Statutes in effect for the student's year of attendance govern the conditions of the attendance agreement. School districts must retain copies of attendance agreements and provide secure electronic copies of the agreements to the OPI. The trustees of a district must electronically submit attendance agreements to the OPI in the format determined by the OPI in accordance with Title 20, chapter 5, MCA. Agreements must be entered and submitted to the state system by June 30 of the year of attendance in order to be eligible for state reimbursement.
- (8) Submission of agreements to the county superintendent of the schools of the county of residence and the county of attendance may be in a format agreed upon by the parties involved.
- (9) When the district is obligated to pay tuition or transportation costs for out-of-district attendance agreements, the tuition will be paid from the district's tuition fund, and the transportation costs will be paid from the district's transportation fund. A district may pay tuition and transportation charges in the student's year of attendance or, if the obligation occurs after the district's budget is adopted, in the ensuing year.
- (10) For a child who has been placed outside the child's resident district by a court or by a state agency or for a child placed outside the child's district of residence in a foster care or group home licensed by the state, the state must be responsible for tuition and may be charged transportation costs as established under 20-5-323, MCA.
- (11) The state's tuition and related transportation obligation shall be paid to the eligible receiving district by the Superintendent of Public Instruction in the year following the year of attendance.
- (12) Tuition payments made for a child placed outside the child's district of residence by a court or state agency must be supported by a properly completed out-of-district attendance agreement signed by both the district of attendance and by an authorized representative of the placing court or state agency. Attendance agreements for students placed in state licensed group homes by parents, guardians, or representatives of state licensed group homes must be signed by the district of attendance and by a parent or legal guardian or an authorized representative of a state licensed group home on behalf of the parent or legal guardian.

Authorizing statute(s): 20-5-323, 20-9-102, 20-9-201, MCA

Implementing statute(s): 20-5-320, 20-5-321, 20-5-322, 20-5-323, 20-5-324, MCA

History: NEW, 1994 MAR p. 1824, Eff. 7/8/94; AMD, 1996 MAR p. 2168, Eff. 8/9/96; AMD, 2002 MAR p. 1662, Eff. 6/14/02; AMD, 2006 MAR p. 3070, Eff. 12/22/06; AMD, 2010 MAR p. 1990, Eff. 9/10/10; AMD, 2016 MAR p. 880, Eff. 5/21/16; AMD, 2024 MAR p. 2182, Eff. 9/21/24.