



ADMINISTRATIVE RULES OF MONTANA



10.16.3818 SPECIAL EDUCATION TUITION RATES

- (1) To be eligible to charge tuition for special education services, a district must provide a special education program that complies with Board of Public Education policies and is approved by the Superintendent of Public Instruction.
 - (a) Districts may not charge a parent or guardian tuition for a student with disabilities.
 - (b) For discretionary out-of-district attendance agreements, districts may not discriminate on the basis of disability in the approval or disapproval per 20-5-320, MCA.
- (2) The maximum tuition rate for students with disabilities is the general education tuition rate established in ARM 10.10.301, reduced by any waivers that a district must apply equally to all students whose tuition is paid by the same type of entity, plus the additional charges as calculated in (3), that apply to districts only.
- (3) A school official of the district of attendance must use one of the options defined below to determine the maximum amount which may be charged to the resident district for students with disabilities in addition to the general education tuition rate:
 - (a) Option A: The additional charge must be calculated by determining the number of hours during which direct special education and related services are being provided each week, as established on the student's individualized education program (IEP). If the total hours are less than 15 (7 1/2 for half-time kindergarten), tuition may not exceed the general education tuition rate. If the total hours per week are 15 (7 1/2 for half-time kindergarten) or more, the total hours will be divided by 30 (the average number of school hours per week, 15 for half-time kindergarten), and multiplied by the maximum general education tuition rate in ARM 10.10.301 to determine the amount which may be added to the rate in ARM 10.10.301.
 - (b) Option B: The actual unique costs of services provided to the student ages 3 to 21 as per the individualized education program (IEP), less 120% of the tuition per-ANB rate defined in 20-5-323(7), MCA, and less the per ANB special education block grants received by the district, may be added to the rate in ARM 10.10.301 if the county superintendent determines all of the following factors are present:
 - (i) the allowable special education costs for that student exceed the rate determined under Option A;
 - (ii) the costs are for special education and related services unique to the student, including specialized one-on-one staff, specialized equipment, and supplies and excluding:
 - (A) the costs for removal of architectural barriers;

- (B) prorated costs of ordinary special education services such as teachers' salaries and benefits; and
 - (C) costs of equipment and supplies commonly used in special education programs.
- (c) Option C: For specialized school district programs which provide concentrated services for significant numbers of students with low incidence disabilities, including nonresident students who enroll in the district of attendance specifically to attend the program, the estimated total per-pupil cost of the program including administrative operating costs, less 120% of the maximum per ANB rate established in 20-9-306(1), MCA, for the year of attendance and less the per ANB special education block grants received by the district, may be added to the rate in ARM 10.10.301, provided:
 - (i) such services provided in any multidistrict program must be determined by the student's IEP team and cannot be based solely on the student's identified low incidence disability;
 - (ii) the district of attendance has submitted a written description of the program and the Office of Public Instruction has provided written approval for the district of attendance to apply the Option C special education tuition add-on rate for nonresident students of the program;
 - (iii) the district of attendance does not pass program costs for resident students on to parties paying nonresident student tuition;
 - (iv) the district of attendance uses any unreserved balance after operating the prior year's special education program for low incidence disabilities to defray the ensuing year's program costs used to determine the tuition rate; and
 - (v) the total per-pupil cost of operating the program is determined based on the estimated average number of students expected to participate in the program for the following year.
- (4) The special education tuition rate calculation should be prorated for the portion of the year the student is enrolled in special education services in the district of attendance, based on the percentage found when the number of days the student was enrolled is divided by 180.
- (5) When a student's IEP requires special education or related services beyond the 180-day school year, the school district of attendance providing services may initiate an attendance agreement or amend an existing agreement to provide tuition that covers the additional extended year period by prorating the actual cost on a daily or hourly basis.

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

Implementing statute(s): 20-5-320, 20-5-321, 20-5-323, 20-5-324, 20-9-306, MCA

History: NEW, 1988 MAR p. 714, Eff. 4/15/88; AMD, 1990 MAR p. 717, Eff. 4/13/90; AMD, 1992 MAR p. 211, Eff. 2/14/92; AMD, 1992 MAR p. 1365, Eff. 6/26/92; AMD, 1994 MAR p. 1824, Eff. 7/8/94; AMD, 1998 MAR p. 1719, Eff. 6/26/98; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00; AMD, 2002 MAR p. 1662, Eff. 6/14/02;

AMD, 2008 MAR p. 1692, Eff. 8/15/08; AMD, 2011 MAR p. 2262, Eff. 10/28/11; AMD, 2024 MAR p. 2182, Eff. 9/21/24.