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Montana Home School Information

Introduction. The Office of Public Instruction receives dozens of calls each year from people with questions about home schooling. Many of those calling request that OPI provide a summary of Montana law pertaining to home schooling. This document outlines key statutes re: private/nonpublic schools in Montana. Attached to this document is the full text of statutes and administrative rules that may be of interest to those with questions about home schooling. The statutes discussed below may also be found in the 2007 Montana Code Annotated and have been in effect for many years. This packet of information is not provided as a complete analysis of the issue nor is it intended as legal advice

Compulsory Enrollment and Exceptions. Montana law states: "Except as provided in [Mont. Code Ann. §20-5-102(2)], any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates: (a) the child's 16th birthday; (b) the date of completion of the work of the 8th grade." Mont. Code Ann. §20-5-102(1).

Home School Exception to Compulsory Enrollment. In Mont. Code Ann. §20-5-102(2), Montana law provides that a "parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless the child is: * * * (e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the purposes of this subsection (e), a home school is the instruction by a parent of his child, stepchild, or ward in his residence and a nonpublic school includes a parochial, church, religious, or private school." Mont. Code Ann. §20-5-102(2) .

Home School Requirements. Section 20-5-109, Mont. Code Ann. states: "To qualify its students for exemption from compulsory enrollment under 20-5-102, a nonpublic or home school:

- (1) shall maintain records on pupil attendance and disease immunization and make the records available to the county superintendent of schools on request;
- (2) shall provide at least the minimum aggregate hours of pupil instruction in accordance with 20-1-301 and 20-1-302;
- (3) must be housed in a building that complies with applicable local health and safety regulations;
- (4) shall provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to 20-7-111; and
- (5) in the case of home schools, shall notify the county superintendent of schools of the

county in which the home school is located in each school fiscal year of the student's attendance at the school."

Responsibilities and Rights of Parent Who Provides Home School and Rights of Child in Home School. Section 20-5-111, Mont. Code. Ann., states that "[s]ubject to the provisions of 20-5-109, a parent has the authority to instruct his child, stepchild, or ward in a home school and is solely responsible for:

- (1) the educational philosophy of the home school;
- (2) the selection of instructional materials, curriculum, and textbooks;
- (3) the time, place, and method of instruction; and
- (4) the evaluation of the home school instruction." Mont. Code Ann, § 20-5-111.

The following information is attached:

- Montana statutes relating to home schooling
- Montana School Accreditation Standards that identify basic education programs for elementary, middle grades, and high school, including graduation .

Addresses of home schooling associations that may assist you:

Association of Nonpublic Schools of Montana
P O Box 1708
Helena, MT 59624

The Grapevine
P O Box 3228
Missoula, MT 59806

Montana Coalition of Home Educators
P O Box 43
Gallatin Gateway, MT 59730
Web Site: www.mtche.org

For additional copies of the home school packet, contact Andy Boehm, at 406-444-0375

MONTANA CODE ANNOTATED - 2007

20-1-301. School fiscal year. (1) The school fiscal year begins on July 1 and ends on June 30. At least the minimum aggregate hours defined in subsection (2) must be conducted during each school fiscal year, except that 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient or a minimum of 360 aggregate hours of pupil instruction must be conducted for a kindergarten program, as provided in 20-7-117.

(2) The minimum aggregate hours required by grade are:

(a) 360 hours for a half-time kindergarten program or 720 hours for a full-time kindergarten program, as provided in 20-7-117;

(b) 720 hours for grades 1 through 3; and

(c) 1,080 hours for grades 4 through 12.

(3) For any elementary or high school district that fails to provide for at least the minimum aggregate hours, as listed in subsections (1) and (2), the superintendent of public instruction shall reduce the direct state aid for the district for that school year by two times an hourly rate, as calculated by the office of public instruction, for the aggregate hours missed.

20-1-302. School term, day, and week. (1) Subject to 20-1-301, 20-1-308, and any applicable collective bargaining agreement covering the employment of affected employees, the trustees of a school district shall set the number of days in a school term, the length of the school day, and the number of school days in a school week and report them to the superintendent of public instruction.

(2) When proposing to adopt changes to a previously adopted school term, school week, or school day, the trustees shall:

(a) negotiate the changes with the recognized collective bargaining unit representing the employees affected by the changes;

(b) solicit input from the employees affected by the changes but not represented by a collective bargaining agreement; and

(c) solicit input from the people who live within the boundaries of the school district.

20-5-102. Compulsory enrollment and excuses. (1) Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

(a) the child's 16th birthday;

(b) the date of completion of the work of the 8th grade.

(2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless the child is:

(a) enrolled in a school of another district or state under any of the tuition provisions of this title;

(b) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;

(c) excused from compulsory school attendance upon a determination by a district judge that attendance is not in the best interest of the child;

(d) excused by the board of trustees upon a determination that attendance by a child who has attained the age of 16 is not in the best interest of the child and the school; or

(e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the purposes of this subsection (e), a home school is the instruction by a parent of his child, stepchild, or ward in his residence and a nonpublic school includes a parochial, church, religious, or private school.

20-5-103. Compulsory attendance and excuses. (1) Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to attend the school in which he is enrolled for the school term and each school day therein prescribed by the trustees of the district until the later of the following dates:

(a) the child's 16th birthday;

(b) the date of completion of the work of the 8th grade.

(2) The provisions of subsection (1) do not apply in the following cases:

(a) The child has been excused under one of the conditions specified in 20-5-102.

(b) The child is absent because of illness, bereavement, or other reason prescribed by the policies of the trustees.

(c) The child has been suspended or expelled under the provisions of 20-5-202.

20-5-109. Nonpublic school requirements for compulsory enrollment exemption. To qualify its students for exemption from compulsory enrollment under 20-5-102, a nonpublic or home school:

(1) shall maintain records on pupil attendance and disease immunization and make the records available to the county superintendent of schools on request;

(2) shall provide at least the minimum aggregate hours of pupil instruction in accordance with 20-1-301 and 20-1-302;

(3) must be housed in a building that complies with applicable local health and safety regulations;

(4) shall provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to 20-7-111; and

(5) in the case of home schools, shall notify the county superintendent of schools of the county in which the home school is located in each school fiscal year of the student's attendance at the school.

20-5-110. School district assessment for placement of a child who enrolls from a nonaccredited, nonpublic school. The trustees of a school district shall:

(1) adopt a district policy on assessment for placement of any child who enrolls in a school of the district and whose previous place of instruction was a nonpublic school that is not accredited;

(2) include in the adopted policy the following provisions:

(a) the specific assessment for placement to be administered to any child subject to the provisions of subsection (1);

(b) a procedure for grade and program placement of the child based on results of the assessment for placement, including considerations for the age and identified abilities of the child; and

(c) a hearing process before the board of trustees of the district if the parent or guardian of a child is not in agreement with the placement of the child and requests a hearing before the board; and

(3) administer the adopted policy required in subsection (1) in a uniform and fair manner.

20-5-111. Responsibilities and rights of parent who provides home school -- rights of child in home school. Subject to the provisions of 20-5-109, a parent has the authority to instruct his child, stepchild, or ward in a home school and is solely responsible for:

(1) the educational philosophy of the home school;

(2) the selection of instructional materials, curriculum, and textbooks; and

(3) the time, place, and method of instruction; and

(4) the evaluation of the home school instruction.

20-7-111. Instruction in public schools. The board of public education shall define and specify the basic instructional program for pupils in public schools, and such program shall be set forth in the standards of accreditation. Other instruction may be given when approved by the board of trustees.

Administrative Rules of Montana
Chapter 55- Standards of Accreditation
Sub-Chapter 9- Academic Requirements

10.55.901 BASIC EDUCATION PROGRAM: ELEMENTARY (1) An elementary school shall have an education program aligned to the program area standards that enables students to meet the content standards and content-specific grade-level learning progressions. (History: 20-2-114, MCA; IMP, 20-2-121, 20-3-106, 20-7-101, MCA; NEW, 1989 MAR p. 342, Eff. 7/1/89; AMD, 1998 MAR p. 2707, Eff. 10/9/98; AMD, 2000 MAR p. 3340, Eff. 12/8/00; AMD, 2012 MAR p. 2042, Eff. 7/1/13.)

10.55.902 BASIC EDUCATION PROGRAM: MIDDLE GRADES (1) A school with middle grades must have an education program aligned to the program area standards that enables all students to meet the content standards and content-specific grade-level learning progressions.

(2) The Board of Public Education, upon recommendation of the Superintendent of Public Instruction, may approve a 7 and 8 grade program that must follow either the middle school philosophy and components described in (3) or the departmentalized philosophy and components described in (4).

(3) The Board of Public Education, upon recommendation of the Superintendent of Public Instruction, may approve a middle school program that:

(a) addresses the unique nature of middle-grade children by focusing on their intellectual, social, emotional, and physical development. To put such philosophy into practice, a middle school must have flexibility to:

(i) approach instruction, scheduling, and teaching in a variety of ways;

(ii) undertake interdisciplinary work; and

(iii) plan blocks of coursework deriving from the intellectual, social, emotional, and physical needs of middle school students.

(b) incorporates critical and creative thinking, career awareness, lifelong learning, and safety;

(c) incorporates instruction in reading literacy and writing literacy into all required and elective program areas as required in the Montana Common Core Standards, ARM Title 10, chapter 53;

(d) includes, at a minimum, the following program areas, required of all students yearly:

(i) English language arts;

(ii) mathematics;

(iii) physical and life sciences;

(iv) social studies; and

(e) at a minimum maintains the following required program areas:

(i) visual arts including, but not limited to art history, art criticism, aesthetic perception, and production;

(ii) music including, but not limited to general, instrumental, and vocal (emphasizing comprehensive music elements, music history, criticism, aesthetic perception, and musical production);

(iii) career and technical education courses or pathways such as agriculture, business education, family and consumer sciences, health occupations and industrial technology education; and

(iv) world languages.

(f) offers as electives to all students exploratory courses such as creative writing, dance, drama, financial education, photography, and leadership.

(4) A junior high (grades 7-9) or 7-8 school must offer an educational program, aligned to the program area standards, that enables all students to meet the content standards and content-specific grade-level progressions.

(a) Instruction in reading literacy and writing literacy shall be incorporated into all required and elective program areas as required in the Montana Common Core Standards, ARM Title 10, chapter 53.

(b) All students shall complete the following program areas each year:

(i) English language arts--1 unit;

(ii) social studies--1 unit;

(iii) mathematics--1 unit;

(iv) science--1 unit; and

(v) health enhancement--1/2 unit.

(c) All students must be allowed to elect from the following program area offerings:

(i) visual arts--1/2 unit;

(ii) music--1/2 unit;

(iii) career and technical education--1/2 unit; and

(iv) world languages and cultures--1/2 unit.

(d) A unit is defined as the equivalent of at least 8100 minutes for one school year.

(e) Time to pass between classes may be counted toward the standard school day but shall not be counted toward class time. (History: 20-2-114, MCA; IMP, 20-2-121, 20-3-106, 20-7-101, MCA; NEW, 1989 MAR p. 342, Eff. 7/1/89; AMD, 1998 MAR p. 2707, Eff. 10/9/98; AMD, 2000 MAR p. 3340, Eff. 12/8/00; AMD, 2012 MAR p. 2042, Eff. 7/1/13.)

10.55.903 BASIC EDUCATION PROGRAM: JUNIOR HIGH AND GRADES 7 AND 8 BUDGETED AT HIGH SCHOOL RATES (REPEALED) (History: 20-2-114, MCA; IMP, 20-2-121, 20-3-106, 20-7-101, MCA; NEW, 1989 MAR p. 342, Eff. 7/1/89; AMD, 1998 MAR p. 2707, Eff. 10/9/98; REP, 2000 MAR p. 3340, Eff. 12/8/00.)

10.55.904 BASIC EDUCATION PROGRAM OFFERINGS: HIGH SCHOOL

(1) The basic education program, aligned to the program area standards, for grades 9 through 12 shall be at least 20 units of coursework that enable all students to meet the content standards and content-specific grade-level learning progressions.

(2) Instruction in reading literacy and writing literacy shall be incorporated into all required and elective program areas as required in the Montana Common Core Standards, ARM Title 10, chapter 53.

(3) Minimum offerings shall include at least the following:

(a) 4 units of English language arts;

(b) 3 units of mathematics;

(c) 3 units of science;

(d) 3 units of social studies;

- (e) 2 units of career and technical education;
- (f) 2 units of arts;
- (g) 1 unit of health enhancement;
- (h) 2 units of world languages; and
- (i) 2 units of electives. (History: 20-2-114, MCA; IMP, 20-2-121, 20-3-106, 20-7-101, MCA; NEW, 1989 MAR p. 342, Eff. 7/1/89; AMD, 1998 MAR p. 2707, Eff. 10/9/98; AMD, 2000 MAR p. 3340, Eff. 12/8/00; AMD, 2012 MAR p. 2042, Eff. 7/1/13.)

10.55.905 GRADUATION REQUIREMENTS (1) As a minimum, a school district's requirements for graduation shall include a total of 20 units of study that enable all students to meet the content standards and content-specific grade-level learning progressions.

(2) In order to meet the content and performance standards, the following 13 units shall be part of the 20 units required for all students to graduate:

- (a) 4 units of English language arts;
- (b) 2 units of mathematics;
- (c) 2 units of social studies;
- (d) 2 units of science;
- (e) 1 unit of health enhancement, with 1/2 unit each year for two years;
- (f) 1 unit of arts; and
- (g) 1 unit of career and technical education.

(3) Units of credit earned in any Montana high school accredited by the Board of Public Education shall be accepted by all Montana high schools.

(4) In accordance with the policies of the local board of trustees, students may be graduated from high school with less than four years enrollment. (History: 20-2-114, MCA; IMP, 20-2-121, 20-3-106, 20-7-101, MCA; NEW, 1989 MAR p. 342, Eff. 7/1/89; AMD, 1998 MAR p. 2707, Eff. 10/9/98; AMD, 2000 MAR p. 3340, Eff. 12/8/00; AMD, 2012 MAR p. 2042, Eff. 7/1/13.)

10.55.906 HIGH SCHOOL CREDIT (1) A high school shall require a minimum of 20 units of credit for graduation, including ninth grade units.

(a) A unit of credit is defined as the equivalent of at least 8100 minutes for one year.

(b) Passage of time between classes may be counted toward the standard school day but shall not be counted toward class time.

(2) A student who is unable to attend class for the required amount of time may be given fractional credit for partial completion of a course, with the local board of trustee's permission.

(3) The local board of trustees may waive specific course requirements based on individual student needs and performance levels. Waiver requests shall also be considered with respect to age, maturity, interest, and aspirations of the students and shall be in consultation with the parents or guardians.

(4) With the permission of the local board of trustees, a student may be given credit for a course satisfactorily completed in a period of time shorter or longer than normally required and, provided that the course meets the district's curriculum and assessment requirements, which are aligned with the content standards stated in the education program. Examples of acceptable course work include those delivered through correspondence, extension, and distance learning courses, adult education, summer school, work study, specially designed courses, and challenges

to current courses. Acceptable programs must be consistent with the local board of trustees' policy.

(a) Montana high schools shall accept such units of credit taken with the approval of the accredited Montana high school in which the student was then enrolled and which appear on the student's official high school transcript as defined in ARM 10.55.911. (History: 20-2-114, MCA; IMP, 20-2-121, 20-3-106, 20-7-101, MCA; NEW, 1989 MAR p. 342, Eff. 7/1/89; AMD, 1998 MAR p. 2707, Eff. 10/9/98; 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.)

10.55.907 DISTANCE, ONLINE, AND TECHNOLOGY-DELIVERED LEARNING (1)

This rule establishes requirements for distance, online, and technology-delivered learning programs and/or courses that fulfill elementary or middle grades basic education programs and/or high school graduation requirements.

(2) School districts may receive and/or provide distance, online, and technology delivered learning programs.

(a) School districts receiving distance, online, and technology-delivered learning programs to supplement instruction may utilize distance, online, and technology-delivered learning as they would other supplementary resources without restriction.

(b) Distance, online, and technology-delivered learning programs and/or courses shall at a minimum be aligned with state content standards and content-specific grade-level learning progressions.

(c) Annually, by the first Monday in June, a school district shall provide a report to the Superintendent of Public Instruction documenting all distance, online and technology-delivered courses, student enrollments, and the digital content providers.

(3) Except as provided in (3)(a), teachers of distance, online, and technology- delivered learning programs shall be licensed and endorsed in Montana or elsewhere in the area of instruction taught with such license granted as a result of the completion of an accredited professional educator preparation program as defined in ARM 10.57.102(3). School districts receiving distance, online, and technology-delivered learning programs described in this rule shall have a distance learning facilitator for each course and available to the students.

(a) When a teacher of distance, online, and technology-delivered learning programs and/or courses does not possess the qualifications specified in (3), the facilitator must be licensed and endorsed in Montana or elsewhere in the area of instruction facilitated with such license granted as a result of the completion of an accredited professional educator preparation program as defined in ARM 10.57.102(3).

(b) When a teacher of distance, online, and technology-delivered learning programs is qualified as provided in (3), the receiving school district's facilitator shall be a licensed teacher or a para-educator.

(c) School districts receiving distance, online, and technology-delivered learning programs and/or courses must provide qualified facilitators for synchronous delivery to students in schools accredited by the Montana Board of Public Education, requiring physical presence of a facilitator, and for asynchronous delivery, requiring facilitators be available to students.

(d) The school district must ensure that the distance, online, and technology-delivered learning facilitators receive in-service training on technology-delivered instruction.

(4) Montana school districts providing distance, online and technology- delivered learning shall comply with the teacher load requirements of ARM 10.55.713(3).

(5) Digital content providers serving Montana schools accredited by the Board of Public Education shall:

(a) annually, by the first Monday in August, register with the Office of Public Instruction;

(b) annually, by the first Monday in June, identify the Montana school districts served in the current school year by the digital content provider, including the courses and student enrollments for each school district served; and

(c) document the professional qualifications, including Montana teacher licensure and endorsement, of their teachers of distance, online, and technology-delivered programs and/or courses by providing names and credentials of other licensing entities, when not licensed and endorsed in Montana. (History: 20-2-114, MCA; IMP, 20-2-121, 20-3-106, 20-7-101, MCA; NEW, 1989 MAR p. 342, Eff. 7/1/89; AMD, 1995 MAR p. 626, Eff. 4/28/95; AMD, 1998 MAR p. 2707, Eff. 10/9/98; AMD, 2000 MAR p. 3340, Eff. 12/8/00; AMD, 2004 MAR p. 719, Eff. 4/9/04; AMD, 2007 MAR p. 692, Eff. 5/25/07; AMD, 2008 MAR p. 2048, Eff. 9/26/08; AMD, 2012 MAR p. 2042, Eff. 7/1/13.)

10.55.908 SCHOOL FACILITIES (1) School facilities shall be constructed, maintained, and supervised in accordance with all applicable local, state, and federal codes, regulations, and laws.

(2) School facilities shall be of sufficient size and arrangement to meet all programs' educational goals.

(3) The local board of trustees shall provide for educational facilities which are functional and safe for the conduct of the educational and extracurricular activities of students, and which will meet federal accessibility standards.

(4) The school shall provide the necessary equipment for first aid.

(5) When the local board of trustees considers major remodeling or building a facility, it shall seek facility expertise in all affected program areas as well as comments from faculty, students, and community.

(6) The local board of trustees shall have a written policy that defines the use of school facilities and resources. (History: 20-2-114, MCA; IMP, 20-2-121, MCA; NEW, 1989 MAR p. 342, Eff. 7/1/89; AMD & TRANS from 10.55.2001, 2000 MAR p. 3340, Eff. 12/8/00; AMD, 2012 MAR p. 2042, Eff. 7/1/13.)

10.55.909 STUDENT RECORDS (1) Each school shall keep, in secure storage, a permanent file of students' records, that shall include:

(a) the name and address of the student;

(b) his/her parent or guardian;

(c) birth date;

(d) academic work completed;

(e) level of achievement (grades, standardized achievement tests);

(f) immunization records as per 20-5-406, MCA;

(g) attendance data; and

(h) the statewide student identifier assigned by the Office of Public Instruction.

(2) The local board of trustees shall establish policies and procedures for the use and transfer of student records that are in compliance with 20-1-213, MCA, and state and federal laws governing individual privacy. All educational records collected and maintained by a school

shall be kept in a confidential manner according to the implementing regulations of the Family Educational Rights and Privacy Act (FERPA) at 34 CFR part 99.

(3) The local board of trustees shall develop a process for destruction of records pursuant to 20-1-213, MCA, including nonpermanent student records. Nonpermanent student records are records retained in a central file maintained by the school containing a student's cumulative educational records, which are not retained as a student's permanent record detailed in (1).

(4) All inactive permanent records from a school that closes shall be sent to the county superintendent or the appropriate county official. (History: 20-2-114, MCA; IMP, 20-2-121, MCA; NEW, 1989 MAR p. 342, Eff. 7/1/89; AMD, 1994 MAR p. 166, Eff. 1/28/94; AMD & TRANS from 10.55.2002, 2000 MAR p. 3340, Eff. 12/8/00; AMD, 2004 MAR p. 2277, Eff. 9/24/04; AMD, 2005 MAR p. 575, Eff. 4/15/05; AMD, 2012 MAR p. 305, Eff. 2/10/12; AMD, 2012 MAR p. 2042, Eff. 7/1/13.)

10.55.910 STUDENT DISCIPLINE RECORDS (1) Each school shall maintain a record of any disciplinary action that is educationally related, with explanation, taken against the student. When a local board of trustees takes disciplinary action against a student, the board must take minutes of the action taken, with detailed explanation, even if the disciplinary action is decided during a closed session. For the purpose of this rule, a disciplinary action that is educationally related is an action that results in the expulsion or out-of-school suspension of the student. This record must be maintained/destroyed consistent with Montana Local Government Records Schedule 7, and is subject to transfer to a local educational agency, accredited school, or nonpublic school pursuant to 20-1-213, MCA. (History: 20-2-114, MCA; IMP, 20-1-213, 20-2-121, MCA; NEW, 2005 MAR p. 1390, Eff. 4/15/05; AMD, 2012 MAR p. 2042, Eff. 7/1/13.)

10.55.911 OFFICIAL HIGH SCHOOL TRANSCRIPT (1) The high school transcript is the official academic record of the courses and credits completed by a high school student. At a minimum, the high school transcript must include:

- (a) statewide student identifier;
- (b) student legal name, address, gender, and date of birth;
- (c) statewide school identifier, school name, school address, school phone, school system name, school system code, and school code;
- (d) student grade level;
- (e) student entry date and exit date;
- (f) course code, course title, course grade, and credits earned for each school term and course taken;
- (g) grade point average;
- (h) graduation date;
- (i) diploma type;
- (j) class rank;
- (k) number in class;
- (l) for each test reported, the test date and the score for each portion of the test;
- (m) academic honors, if applicable; and
- (n) required number of credits for graduation. (History: 20-2-114, MCA; IMP, 20-1-213, 20-2-121, MCA; NEW, 2013 MAR p. 961, Eff. 6/7/13.)