



## Requests to the Governor from the OPI Current to March 15, 2020

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**DATE: September 16, 2020**

**TO: Governor Bullock**

**FROM: Superintendent Arntzen**

**RE: Follow Up on COVID Data Reporting for Schools**

Governor Bullock,

Thank you for your response to my letter from yesterday regarding the public release of student and staff COVID-19 data at the individual school level. **Let me be clear, I do not object to high-level school data reporting aggregated at the county level as is currently being done for general cases.** As I stated yesterday and my staff pointedly explained in our offices' weekly senior staff meeting on September 10<sup>th</sup>, the OPI's position is that high-level school data reporting should be aggregated at the county level as is currently being done for general COVID-19 cases.

Protecting the medical data privacy rights of Montana's children and staff in schools is a high priority for government. The risk of revealing personally identifiable health information is too great. My staff and I have explained to you and your staff the uniqueness of small rural schools presenting privacy issues with your current public data display plan. Your actions indicate that you disregard parental rights and do not defend Montana's standard of local control.

I also want to clarify the purpose of these weekly senior staff meetings. My request is that these meetings be an equal two-way conversation for information sharing, collaboration, and planning in general; not just related to COVID-19. Additionally, there is an expectation that collaboration generating or editing documents will be shared by all parties before the final version is posted. This has not occurred and has resulted in misrepresentations, by your staff, of what has been discussed in these meetings. The suspicion that you have generated with these meetings demands the need for transparency.

Sincerely,

Elsie Arntzen  
Superintendent of Public Instruction

Elsie Arntzen, Superintendent

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STATE OF MONTANA

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**DATE: September 15, 2020**

**TO: Governor Bullock**

**FROM: Superintendent Arntzen**

**RE: COVID Data Reporting for Schools**

Governor Bullock,

I appreciate that our staff has recently been communicating regarding potential public releases of school COVID-19 data. As stated in the last joint senior staff meeting on September 10<sup>th</sup>, the OPI supports reporting combined school data at the county level.

**I am once again, in writing, informing you that I strongly oppose your current proposal for publicly displaying children and staff health data at the individual school level.** I have great concerns about the medical data privacy of children, families, and school staff.

As you know, Montana has many rural schools with very few students and staff. A grave risk exists that individual health data privacy would be compromised. I ask that you reconsider your decision.

My staff and I remain available for continued conversations on this topic.

Sincerely,

Elsie Arntzen  
Superintendent of Public Instruction

**From:** [Swingley, Julia](#)  
**To:** [Klapmeier, Dylan](#)  
**Subject:** FW: Face coverings in classroom  
**Date:** Wednesday, September 2, 2020 3:06:20 PM  
**Attachments:** [image001.png](#)

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**From:** Swingley, Julia  
**Sent:** Friday, August 28, 2020 3:57 PM  
**To:** Graybill, Raphael <Raphael.Graybill@mt.gov>  
**Cc:** Flynn, McCall <MFlynn@mt.gov>; Bovingdon, Ali <ABovingdon@mt.gov>; Gelinias, Guylaine <GGelinias@mt.gov>; Sommers-Flanagan, Rylee <Rylee.Sommers-Flanagan@mt.gov>  
**Subject:** RE: Face coverings in classroom

Dear Mr. Graybill,

I am sending this email on behalf of the Superintendent of Public Instruction.

The Superintendent is in receipt of the August 27, 2020, Directive implementing among other things, modifications to the July 15<sup>th</sup> Directive on masks in schools. This Directive appears responsive to the issue brought to the Governor's attention by my August 21<sup>st</sup> email to you. I raised issue with the enforceability and legal authority of the FAQ, prepared by the Joint Information Center (JIC) as well as the enforceability of email exceptions which were provided to certain school districts. These FAQs and directions purported to give limited exceptions to the July 15<sup>th</sup> mask Directive, but did not have the force of law, as do the Governor's orders and directives according to the Montana's Constitution (Article VI, Sections 4 and 13), and Title 10, Chapter 3, and Title 50, Chapter 1, MCA.

This August 27<sup>th</sup> Directive adopts the flexibilities previously provided by the Governor's office and DPHHS in the FAQ and in communications with schools, and gives them the force of law.

The Superintendent notes that there is still conflicting language about where and when masks have to be worn and the role of social distancing. The Superintendent recognizes the timeliness of your response to my questions raised regarding the legal authority. The Superintendent requests additional clarification on where and when masks do not have to be worn and the role of social distancing.

(Please note for future reference the correct spelling of the Superintendent's last name is Arntzen).

Thank you.

Julia



**Julia W. Swingley**  
Chief Legal Counsel  
Montana Office of Public Instruction

- Phone: 406-444-4399
- Website: [www.opi.mt.gov](http://www.opi.mt.gov)
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- Helena, MT 59620
- This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that dissemination, distribution, or forwarding of this communication is strictly prohibited. If you received this communication in error, please notify the sender immediately and delete this message from any device and/or media where the message is stored. Thank you.

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**From:** Graybill, Raphael <[Raphael.Graybill@mt.gov](mailto:Raphael.Graybill@mt.gov)>

**Sent:** Friday, August 28, 2020 10:58 AM

**To:** Arntzen, Elsie <[Elsie.Arntzen@mt.gov](mailto:Elsie.Arntzen@mt.gov)>

**Cc:** Swingley, Julia <[Julia.Swingley@mt.gov](mailto:Julia.Swingley@mt.gov)>; Flynn, McCall <[MFlynn@mt.gov](mailto:MFlynn@mt.gov)>; Bovingdon, Ali <[ABovingdon@mt.gov](mailto:ABovingdon@mt.gov)>; Gelinias, Guylaine <[GGelinias@mt.gov](mailto:GGelinias@mt.gov)>; Sommers-Flanagan, Rylee <[Rylee.Sommers-Flanagan@mt.gov](mailto:Rylee.Sommers-Flanagan@mt.gov)>

**Subject:** Face coverings in classroom

Superintendent Arntzen:

Our office is in receipt of your question regarding face coverings in classrooms, and the relationship between guidance documents and directives.

Unfortunately, a public health crisis does not fit neatly into the four corners of a document and guidance is required to help the public comply with the intent of the Directives. This has been the case throughout the current crisis.

The attached Directive, issued yesterday and available publicly [here](#), should help in answering the question posed.

Raph Graybill  
Chief Legal Counsel  
Governor Steve Bullock  
PO Box 200801  
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(406) 444-3179  
[raphael.graybill@mt.gov](mailto:raphael.graybill@mt.gov)

Elsie Arntzen, Superintendent

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**DATE: August 27, 2020**

**TO: Governor Steve Bullock**

**CC: Raph Graybill  
Julia Swingley**

**FROM: Superintendent Elsie Arntzen**

**RE: Frequently Asked Questions Regarding the School Mask Directive**

Governor Bullock,

I am following up on my Chief Legal Julia Swingley's request for clarification on the frequently asked questions [document](#) produced by your office in relation to the mask directive in schools. As Montana's state education agency, we are receiving many inquiries from parents and educators and do not have answers from your office. **Please see the below August 21<sup>st</sup> email from Ms. Swingley to Mr. Graybill and provide me with a response to the enforceability and legal authority of the subsequent statements, emails, and online FAQs by your office allowing exceptions to the rules in the Directive.**

Sincerely,

Elsie Arntzen  
Superintendent of Public Instruction

**From:** Swingley, Julia

**Sent:** Friday, August 21, 2020 4:03 PM

**To:** Graybill, Raphael <[Raphael.Graybill@mt.gov](mailto:Raphael.Graybill@mt.gov)>

**Subject:** July 15th Directive and subsequent statements by Governor

Dear Mr. Graybill,

Superintendent Elsie Arntzen requests you address the legal impact of new directions regarding face coverings in schools which the Governor has provided to school administrators and referenced in his letter to the Superintendent on August 21, 2020.

Elsie Arntzen, Superintendent

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**DATE: August 20, 2020**

**TO: Governor Steve Bullock**

**FROM: Superintendent Elsie Arntzen**

**RE: Mask Directive Changes**

Governor Bullock,

It is my understanding that your office has provided additional information to certain school boards and districts regarding your recent unilateral mask mandate, but not to others. Although I have not received any of this from you or your office, much of the information provided seems to conflict with your initial directive, which only creates more confusion and uncertainty as we begin to safely reopen schools next week.

Your education policy advisor has informed others that students seated at desks and socially distanced will not be required to wear masks. In addition, your office let a select group know that teachers in front of the classroom who are at least six feet away also are not required to wear masks. These are significant changes that need to be widely communicated to all Montanans instead of quietly decided in the Governor's office and disseminated only to a few individuals.

While I am encouraged that you seem to be somewhat heeding my requests for local control in this decision-making, much of the ill-timed guidance coming from your office is contradictory and inconsistent at best. Now is not the time for conflicting information as our teachers and students safely return to school.

Our parents and students deserve timely and consistent information as soon as possible as we look to reopen our classrooms. As a fellow statewide officeholder and the official elected to lead our Montana public education system, I reiterate my desire to collaborate with you to best serve our schools. However, I am unable to do so when my office is unaware of the last-minute changes you are making to your statewide mask mandate.

I ask that you please provide me, along with parents and our local communities, any updated information related to your implementation of the mask mandate in schools. Going forward, it is my sincere hope that you will collaborate and provide timely information.

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen".

Elsie Arntzen  
Superintendent of Public Instruction

CC: Deputy Superintendent [Tim Johnson](#), 406-444-3449

Elsie Arntzen, Superintendent

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August 12, 2020

Governor Steve Bullock  
Office of the Governor  
P.O. Box 20080  
Helena, MT 59620-0801

Governor Bullock,

Thank you approving the Office of Public Instruction's (OPI) request for pupil transportation financial support from Montana's federal Coronavirus Relief Funds. This will ensure that students can be safely transported to school in light of COVID-19 while protecting local taxpayers during these uncertain times. The OPI's School Finance Division will work with your Budget Office to ensure that school districts receive timely information and resources regarding these funds.

Additionally, I appreciate you approving the OPI's request to waive onsite learning restrictions which will allow students learning remotely to receive the educational services that they expect.

**I request that you quickly respond to the OPI's outstanding request for clarification on whether your July 15<sup>th</sup> directive regarding face coverings applies to school settings and school-related activities.** As schools and families are preparing to start the new school year in the next few weeks, they deserve this clarification.

Thank you for responding to these important requests on behalf of Montana's families, students, and educators. I hope that we can work together in a timely manner to serve schools and communities this coming school year. I can be reached anytime on my cell phone at 406-698-7845 or by email at [elsie.arntzen@mt.gov](mailto:elsie.arntzen@mt.gov).

Sincerely,

Elsie Arntzen  
Superintendent of Public Instruction

Elsie Arntzen, Superintendent

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**DATE: July 30, 2020**

**TO: Governor Steve Bullock**

**FROM: Superintendent Elsie Arntzen**

**RE: Clarifying Mask Directive as it Relates to K-12 Schools**

Governor Bullock,

The Office of Public Instruction has received numerous calls from local education and health officials related to your mask [directive](#) issued on July 15, 2020. K-12 public schools are not directly discussed in the directive. During the press conference announcing this directive and subsequently in an email from one of your staff, it was stated that the mask directive does not apply to schools at this time. **Please confirm if that is true.**

**Additionally, please clarify the definition of school as it applied to the above directive.** Considerations are sporting events, pupil transportation, afterschool programs, and other school-sponsored events. Local schools, health officials, and education partners need clarification on which events under the umbrella of schools the directive applies to and which it does not.

**I urge you to respect local control in education. These decisions should be made by locally elected Trustees in coordination with their local health departments.**

Thank you in advance for clarifying these questions for Montana schools. I can be contacted on my cell phone at 406-698-7845 or by email at [elsie.arntzen@mt.gov](mailto:elsie.arntzen@mt.gov).

Sincerely,

Elsie Arntzen  
Superintendent of Public Instruction

Elsie Arntzen, Superintendent

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**DATE: July 23, 2020**

**TO: Governor Steve Bullock**

**FROM: Superintendent Elsie Arntzen**

**RE: Waiver of Onsite Learning Restrictions**

Dear Governor,

Individual districts across Montana are determining how to safely re-open schools for Fall 2020. The model for learning in this time of a state declared emergency, has encouraged on-site, off-site, online, or a hybrid model which meets local needs. A significant number of districts are choosing a hybrid model striving to blend onsite learning with off-site learning.

Offsite enrollment is allowed under 20-7-118, MCA and the district providing offsite educational services can include for ANB funding purposes any pupils who are enrolled in the offsite program, but with restrictions. **The OPI requests the Governor issue a directive to temporarily waive the restrictive subsections of 20-7-118, MCA below:**

**The provision of educational services at an offsite instructional setting by a district is limited to pupils:**

- (a) meeting the residency requirements for that district as provided in 1-1-215;**
- (b) living in the district and eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or**
- (c) attending school in the district under a mandatory attendance agreement as provided in 20-5-321.**

This waiver will enable per-pupil ANB funding for districts that are providing offsite learning to students.

Thank you for your consideration of this request on behalf of our school districts. If you have any questions, I can be contacted on my cell phone at 406-698-7845 or by email at [elsie.arntzen@mt.gov](mailto:elsie.arntzen@mt.gov).

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen".

Elsie Arntzen  
Superintendent of Public Instruction

Elsie Arntzen, Superintendent

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**DATE: July 23, 2020**

**TO: Governor Steve Bullock**

**FROM: Superintendent Elsie Arntzen**

**RE: Follow Up on CRF Transportation Funding**

Governor Bullock,

To follow up on the Coronavirus Relief Funds for pupil transportation, **I am requesting a conversation with you or your relevant staff as soon as possible to clarify the pupil transportation funding mechanisms in light of the timing constraints described below.**

County Transportation Committee meetings across our state are being held at this very moment regarding approval of bus routes and individual contracts per 20-10-132, MCA. These meetings need to occur before the fourth Monday in July in accordance with 10.7.101, ARM. With the impact of COVID-19, many of these routes may be amended for safely transporting our students per the CDC recommendations. The last date that school budgets must be adopted is Aug 25, 2020 as per 20-9-131, MCA.

Our office has not received any communication concerning the \$10M pupil transportation grant.

Thank you again for using Montana's CRF funds to support additional pupil transportation costs. I can be contacted on my cell phone at 406-698-7845 or by email at [elsie.arntzen@mt.gov](mailto:elsie.arntzen@mt.gov).

Sincerely,

Elsie Arntzen  
Superintendent of Public Instruction



**DATE: July 20, 2020**

**TO: Governor Steve Bullock**

**FROM: Superintendent Elsie Arntzen**

**RE: Amendments to July 15<sup>th</sup> Directive on CRF Pupil Transportation Funds**

Governor Bullock,

Regarding your July 15<sup>th</sup> directive allocating \$10 million for pupil transportation support from the Coronavirus Relief Funds (CRF), please see the below amendment requests from the Office of Public Instruction (OPI) to better ensure that these funds are used as effectively as possible:

- The process in statute for reimbursing districts for pupil transportation expenditures is based upon the County Transportation Committee and the OPI approval of individual bus routes and individual transportation contracts. The obligation for the OPI to pay its portion of the reimbursement is created with the approval of a bus route and the subsequent running of the route. (20-10-112(5), 20-10-112(6), 20-10-141, 20-10-145(2), MCA). This statutory obligation by the OPI does not go away just because the Governor grants CRF funds to school districts. If the Governor's Office distributes the CRF funds to school districts to offset the OPI's obligation to pay as stated in statute, there must be a lawful mechanism to allow the OPI to deduct the CRF payments from its calculated payments. This action by OPI of deducting the CRF Payments must be authorized by emergency directive of the Governor. **The OPI requests the Governor amend the July 15<sup>th</sup> Directive or issue a new directive, specifically instructing the OPI to "reduce its pupil transportation claims payments to school districts accordingly."**
- Once a transportation budget, County reimbursement, OPI reimbursement, and CRF payment has been calculated for a district, changes must be anticipated and a mechanism for determining the best use of the CRF funds must be established. For example, if a school district creates a budget assuming full pupil transportation but then is forced to close for a month and rely on remote learning, how will the district amend their budget and dispose of the CRF funds granted? **The OPI requests the Governor establish a process for amendment when a significant change to the pupil transportation plan occurs at a district.**

- Guidance must be given to school districts on how to document the expenditures for pupil transportation from the CRF funds for federal audits. Districts will not be able to label individual routes as “COVID-19” routes as a way of documenting an expenditure as an allowable expense. **The OPI requests the Governor issue guidance to school districts concerning appropriate documentation to show the funds were expended on allowable costs related to the COVID-19 pandemic.**

Thank you for using Montana’s CRF funds to support Montana’s public schools and students. Please consider these amendments and let me know your decision. If you have any questions please call me on my cell phone at 406-698-7845 or by email at [elsie.artzon@mt.gov](mailto:elsie.artzon@mt.gov).

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen". The signature is written in black ink and is positioned below the word "Sincerely,".

Elsie Arntzen  
Superintendent of Public Instruction

In the August 21, 2020 letter, the Governor directed the Superintendent to the FAQ, prepared by the Joint Information Center (JIC). The Governor referred to the FAQ as providing “updated guidance” and providing “allowances” and “limited flexibilities.” The FAQ do in fact modify and limit the terms of the July 15<sup>th</sup> Directive. Prior to receipt of this letter, the Superintendent was made aware of several emails from McCall Flynn as well as a letter out to a school district, wherein the Governor’s office provided similar modifications and allowances to the terms of the July 15<sup>th</sup> Directive.

The enforceability and legal authority of the July 15<sup>th</sup> Directive regarding masks is clear according to the Montana’s Constitution (Article VI, Sections 4 and 13), and Title 10, Chapter 3, and Title 50, Chapter 1, MCA. The July 15<sup>th</sup> Directive is a “public health order.” It is enforceable by the Montana Attorney General, DPHHS, a county attorney, or local authorities acting at the direction of a county attorney.

The enforceability and legal authority of the subsequent statements by the Governor allowing exceptions to the rules in the Directive, is very unclear. There is confusion by school administrators as to the legally binding effect of the FAQ, emails and other correspondence coming from the Governor’s office after the July 15<sup>th</sup> Directive.

School administrators, parents, students, teachers and the public seek accurate information from the OPI related to the effect of the mask Directive on students and staff in schools, as well as the consequences of failure to comply with any part of the rules related to masks. A response from you to these questions would assist the Superintendent in continuing to provide clarification and guidance to schools through this very challenging and confusing time.

Thank you in advance for assistance with this question.

Sincerely,



**Julia W. Swingley**  
Chief Legal Counsel  
Montana Office of Public Instruction

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- Website: [www.opi.mt.gov](http://www.opi.mt.gov)
- Email: [julia.swingley@mt.gov](mailto:julia.swingley@mt.gov)

Elsie Arntzen, Superintendent

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**DATE: July 14, 2020**

**TO: Governor Steve Bullock**

**FROM: Superintendent Elsie Arntzen**

**RE: Pupil Transportation Support from the Governor's Coronavirus Relief Funds**

Dear Governor Bullock,

I am writing on behalf of Montana's public schools to request support from the Governor's Coronavirus Relief Funds (CRF) for anticipated increases to pupil transportation costs this coming school year. This request is due to increased bus routes as districts follow COVID-19 pupil transportation recommendations from the Centers for Disease Control and Prevention.

Under [MCA 20-10-101 through 148](#), the state and county pay roughly 14% each of pupil transportation costs with the district paying the remaining 72%. I request that any additional pupil transportation costs for the 2020-2021 school year that are above what was paid in the 2019-2020 school year be covered by CRF.

The OPI has consistently heard from district administrators and county officials that pupil transportation could become one of the most expensive costs to schools safely reopening. Without this critical support, a significant share of this financial burden will impact county taxpayers in the form of increased levies.

As we thoughtfully and safely reopen Montana schools this fall, we are obligated to ensure schools have the resources they need to keep their students safe and deliver high-quality education services. While I equitably distributed nearly \$41 million in federal CARES Act funding to Montana school districts, it did not adequately cover the multitude of new expenses associated with safely reopening schools and transporting our Montana students.

Please let me know if you have any questions and thank you for considering this request on behalf of Montana's public schools, students, and taxpayers.

Sincerely,

Elsie Arntzen  
Superintendent of Public Instruction

Elsie Arntzen, Superintendent

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April 8, 2020

Governor Steve Bullock  
Office of the Governor  
PO Box 200801  
Helena, MT 59620-0801

Dear Governor Bullock,

School leaders, teachers, students, and parents have done a tremendous job of responding to the unprecedented circumstances that their communities face in light of the COVID-19 outbreak in Montana. The alternative education plans that local trustees have certified to your office are being carried out with fidelity, ensuring that students receive equitable access to alternative education and nutrition services.

As you consult with health officials in two-week decision-making timeframes, school leaders and parents are asking for the ability to plan in a consistent manner for the short remainder of the 2019-2020 school year. Each district's school year calendar is different.

I request that you give local districts flexibility in how they finish out the academic year as you consider when to open school doors again. If the decision is made to reopen schools before a district's academic year is complete, I request that you allow school districts the option to continue operating under the alternative plans that have been approved or a mix of alternative learning with a partial return to school buildings, without penalty to the district.

Thank you for your consideration. I look forward to your response to this request and I am available to discuss this further.

Sincerely,

Elsie Arntzen  
Montana Superintendent of Public Instruction



March 19, 2020

**TO: The Office of The Governor**  
**ATTN: Raph Graybill, Chief Legal Counsel**  
**RE: School Flexibility Requests Through Emergency Orders**

Mr. Graybill,

Today I bring to your attention an important need for the Governor to clarify the scope of his March 15, 2020, executive order closing the State's public schools from March 16 through March 27, 2020. **It is imperative that the Order not be construed to shut down the business of public education in its entirety but, rather, to close Montana's public school buildings to regularly scheduled educational activities while requiring that each local school district continue to provide equitable education services to students in the form of distance learning, (that allows for delivery of instruction that works for each school community).**

The requested clarification will respect the flexibility granted to school districts by the Legislature to allow alternative instructional hours. *See Section 20-7-101(5) and (14), MCA, (off-site instruction); Section 20-1-301, (off-site instruction); Section 20-9-311(4)(d) and 20-1-301, MCA, (proficiency in content); and Section 20-7-1602, MCA, (transformational learning).*

This clarification is crucial to ensure that during this limited "closure" all school districts may continue to qualify for United States Department of Agriculture nutrition programs. The USDA has advised OPI that unless the schools are open in an operational sense and providing off-site learning opportunities for their students during the COVID-19 building closure, the USDA programs including the National School Lunch Program and the School Breakfast Program are not authorized. This leaves the Summer Food Service Program as the only fund available to feed students, and not all communities in Montana are eligible for this program. In short, if Montana's schools are deemed closed for all purposes under the Governor's order this program will terminate.

In summary the requested clarification of the Governor's school closure order will assure that school districts may continue to receive USDA funds to provide meals outside school buildings. Further it would create the expectation that teachers will continue to provide off-site educational services. Finally, in a time of great anxiety and uncertainty resulting from the COVID-19 pandemic, the requested clarification will provide to our school students some sense of stability and continuity in their lives and help them focus their energies on learning opportunities.

Thank you in advance for ensuring the Governor will consider the OPI's request for clarification and assistance to Montana public schools.



**Julia W. Swingley**  
Chief Legal Counsel  
Montana Office of Public Instruction



March 17, 2020

**TO: The Office of The Governor**  
**ATTN: Raph Graybill, Chief Legal Counsel**  
**RE: School Flexibility Requests Through Emergency Orders**

The OPI greatly appreciates the Governor's continued consideration of the OPI's requests to waive statutory requirements which restrict the local school districts from planning and administering their schools during this period of school closure.

**Request 1:**

Please have the Governor consider issuing a waiver of requirements in section 20-1-301, MCA, as the OPI had requested in its email of 3/15/2020. Pursuant to your request during the meeting of 3/16/2020, I provide the following proposed language for the Governor:

*I am waiving any penalties that could affect Montana school districts that do not meet aggregate hours as required in section 20-1-301, MCA. This waiver does not relieve school districts from providing equitable educational services for students for the remainder of the school closure. I strongly advise school districts to work on providing equitable access to educational services, which may be directed to implementing proficiency policies for student learning, thus addressing aggregate hours as set forth in section 20-9-311(4)(d), MCA.*

**Request 2:**

The OPI greatly appreciates the Governor's continued consideration of the OPI's requests to waive statutory requirements which restrict the local school districts from planning and administering their schools during this period of school closure.

Accordingly, the OPI respectfully requests the Governor consider waiving the underlined portions below, in section 20-10-145 and section 20-10-146, MCA. These two statutes control both state reimbursement and county reimbursement payment for school bus transportation. The OPI believes that underlined portions of section 20-10-145 and section 20-10-146, MCA, must be eliminated during the school closure and extending until June 30, 2020, to allow State and county funds for bus transportation reimbursement to continue to flow to local districts during and after the school closure.

The reimbursement provides a portion of a school district's budgeted transportation fund. The school district transportation fund allows districts to pay for district salaries and benefits for staff working in transportation, contracts with pupil transportation providers, and other necessary bussing needs. The OPI requests the underlined sections of the following statutes be waived through June 30<sup>th</sup>, 2020. Under this waiver, the state and county will continue to pay school districts for bus routes but not individual (parent's) transportation contracts. This will be as if the district operated as originally scheduled instead of "actual days." This payment will continue, allowing the districts to provide services for transportation services provided to student for school related instruction which can include delivery of lesson plans, nutritional services, and technology services.

**20-10-145. State transportation reimbursement.**

(1) A district providing school bus transportation or individual transportation in accordance with this title, board of public education transportation policy, and superintendent of public instruction transportation rules must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of [20-10-141](#) and [20-10-142](#). The state transportation reimbursement is one-half of the reimbursement amounts established in [20-10-141](#) and [20-10-142](#) or one-half of the district's transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were **actually** rendered to transport eligible transportees, as defined in [20-10-101](#), to or from school to participate in the minimum aggregate hours of instruction required pursuant to [20-1-301](#). In determining the amount of the state transportation reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

**20-10-146. County transportation reimbursement.**

(1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is **actually rendered by a district** in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment.

The OPI looks forward to discussing this further.

Thank you for consideration of this request. Please contact me with any questions.



**Julia W. Swingley**

Chief Legal Counsel

Montana Office of Public Instruction

Elsie Arntzen, Superintendent

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OFFICE OF PUBLIC INSTRUCTION  
STATE OF MONTANA

Putting Montana Students First **A+**



March 15, 2020

Governor Steve Bullock  
Office of the Governor  
PO Box 200801  
Helena, MT 59620-0801

Dear Governor Bullock,

In light of the growing outbreak of the COVID-19 virus in Montana, I am requesting that you waive the per-pupil-instruction hour requirements for Montana schools as mandated in MCA 20-1-301 if the school has closed in consultation with their local or tribal health authorities and are making an effort to continue offering alternative education and nutrition services in an equitable manner. This would protect public health and safety by increasing social distancing while still ensuring that state funding flows to schools.

As you know, Montana is a local control state when it comes to education. We trust local health and education leaders to make the best decisions for their communities, with the support of state officials. The only entities that can close schools are local trustees, health authorities, or the Governor, with only the Governor having the ability to ensure school funding by waiving the requirements of MCA 20-1-301.

As of today, many school leaders across Montana are considering closing their schools to protect the health and safety of their students and staff. We have urged school leaders to notify the OPI if they plan to close school and to do so in consultation with local or tribal health authorities.

I want to commend local school leaders for their tremendous efforts in responding to the unique circumstances their communities face. As state leaders, we should support them in their efforts while respecting their local decision-making. I appreciate the continued dialogue between our offices as you make these decisions.

Sincerely,

Elsie Arntzen  
Montana Superintendent of Public Instruction