

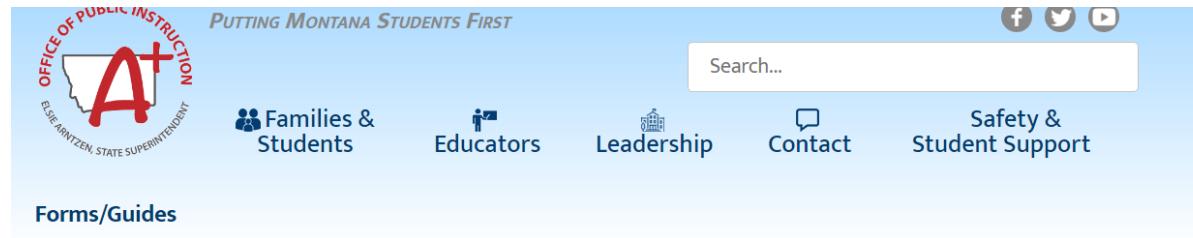


# EDUCATIONAL SURROGATE PARENTS

Mandi Gibbs  
Early Assistance Program for Special Education

Putting Montana Students First 

# EDUCATIONAL SURROGATE PARENT BROCHURE



The image shows the header of the Montana Office of Public Instruction (OPI) website. It features the OPI logo on the left, which includes a red circular seal with "OFFICE OF PUBLIC INSTRUCTION" and "ELSTEARNTZEN, STATE SUPERINTENDENT" around the perimeter, and a large red "A+" in the center. To the right of the logo is the slogan "PUTTING MONTANA STUDENTS FIRST". Below the logo are four main navigation links: "Families & Students", "Educators", "Leadership", and "Safety & Student Support". Above these are three social media icons: Facebook, Twitter, and YouTube. A search bar with the placeholder "Search..." is positioned to the right of the navigation links. At the bottom of the header, there is a link labeled "Forms/Guides".

## Special Education Forms

The Office of Public Instruction has mandated use of the Special Education module of the AIM System effective March 1, 2010. The forms below are for informational purposes only.

- [Access Log](#)
- [Consent to Invite Outside Agency for Post-Secondary Transition Services](#)
- [Eligibility Criteria Checklists](#)
- [Evaluation Plan](#)
- [Evaluation Report](#)
- [Evaluation Report - Spanish](#) - now Fillable
- [Graduation Form](#)
- [Individualized Education Program \(IEP\)](#)
- [Individualized Education Program \(IEP\) - Spanish](#) - now Fillable
- [Individualized Education Program \(IEP\) - Transition IEP Example](#)
- [IEP Team Member Excusal](#)
- [Manifestation Determination](#)
- [Medicaid - Annual Notice Regarding Billing](#)

## Special Education Guidance

- [Assistive Technology](#)
- [Dyslexia Information](#)
- [Montana Special Education Guidance](#)
- [OT/PT Guidelines](#)
- [Collaborative Goals Fact Sheet](#)
- [OT Fact Sheet](#)
- [PT Fact Sheet](#)
- [Paraprofessional Guide](#)
- [Procedural Safeguards in Special Education](#)
- [Procedural Safeguards - Spanish Version](#)
- [Prior Written Notice Q&A](#)
- [Speech-Language Pathology Services Guidelines](#)
- [Educational Surrogate Parent Brochure](#)

# WHAT IS AN EDUCATIONAL SURROGATE PARENT?

Montana law defines a surrogate parent as: “an individual appointed to safeguard a child’s rights and protect the child’s interests in educational evaluation, placement, and hearing or appeal procedures concerning the child.” [MCA 20-7-461(1)]

# WHEN MUST A SURROGATE PARENT BE APPOINTED?

- When the “parent” of the child with a disability cannot be identified;
- After reasonable efforts the location of the parent cannot be determined;
- The child is a ward of the state; or
- The child is an unaccompanied homeless youth as defined in the McKinney-Vento Homeless Assistance Act.

[34 CFR 300.519(1) and MCA 20-7-461]

# A SURROGATE PARENT IS NECESSARY, NOW WHAT?

Within 10 days of the school district determining that a child with a disability needs a surrogate parent, the school district must nominate a person to act as a surrogate parent and deliver the necessary documentation to the youth court for appointment. [MCA 20-7-461(1)]

# HOW IS A SURROGATE PARENT NOMINATED?

- The district submits a nomination for appointment (and any necessary supporting documents) with the youth court.
- The surrogate parent must be appointed by the youth court.
- The district shall take reasonable action to make sure the youth court appoints or denies appointment of the surrogate parent within 20 days of the court's receiving the necessary supporting documents.
- If the youth court denies appointment, the district shall nominate another person.
- If the youth court fails to act within 20 days, the individual nominated is the surrogate parent for the child.

[MCA 20-7-461(3)]

# WHO CAN BE A SURROGATE PARENT?

- Must be an adult who is not an employee of the school district providing educational services to the child or the state educational agency (OPI).
- The person nominated may not have a vested interest that will conflict with the person's representation and protection of the child.
- If practicable, must be knowledgeable about the educational system, special education requirements, and the legal rights of the child in regard to the educational system as well as the cultural or language background for the child.

[MCA 20-7-461(2)]

# WHAT ARE THE SURROGATE PARENT'S RESPONSIBILITIES?

- Represent the child in all matters relating to the identification, evaluation and educational placement of the child; and the provision of FAPE. 34 CFR 300.519(g).
- Montana law requires surrogate parents to do the following in order to represent the child in “all decision-making processes concerning the child’s education”:
  - Becoming thoroughly acquainted with the child’s history and other information contained in school and other pertinent files, records, and reports relating to the child’s educational needs;
  - Complying with state and federal law as to the confidentiality of all records and information to which the person is privy pertaining to that child and using discretion in the necessary sharing of the information with appropriate people for the purpose of furthering the interests of the child;
  - Becoming familiar with the educational evaluation and placement for the child and by giving approval or disapproval for the evaluation and placement and reviewing and evaluation special education programs pertaining to the child and other programs that may be available; and
  - Initiating any mediation, hearing or appeal procedures necessary and seeking qualified legal assistance whenever the assistance is in the best interest of the child.

[MCA 20-7-462]

# WHEN IS A SURROGATE PARENT'S APPOINTMENT TERMINATED?

- The child's parent is identified;
- The location of the parent is discovered;
- The child is no longer a ward of the state; or
- The surrogate parent wishes to discontinue the appointment.

[MCA 20-7-461(4)]

- When any of the above occur, the school district must petition the court for termination of the surrogate parent appointment. [ARM 10.16.3504(3)]

# ARE SURROGATE PARENTS IMMUNE FROM LIABILITY?

- An appointed surrogate parent is exempt from liability for any act or omission performed in the capacity as a surrogate parent except an act or omission that is found to have been committed in a grossly negligent or malicious manner.
- An appointed surrogate parent has the same protection and immunity in professional communications as a teacher.

[MCA 20-7-463(1)-(2)]

# DO SURROGATE PARENTS GET REIMBURSEMENT?

A surrogate parent must be reimbursed by the school district for all reasonable and necessary expenses incurred in the pursuit of the surrogate parent's duties as described by rules adopted by the Superintendent of Public Instruction.

[MCA 20-7-463(3)]



# NEW PARTICIPATION GUIDE FOR STATEWIDE ASSESSMENTS

**Yvonne Field**  
Assessment and Accountability Specialist  
Sped Director Meeting, March 18, 2020

# PURPOSE

Montana  
Office of Public Instruction

MontCAS Policies and Procedures for  
Participation in State Assessments



Effective February 2021



**Six Things Stakeholders Should Know About  
Participation and Testing in Montana**

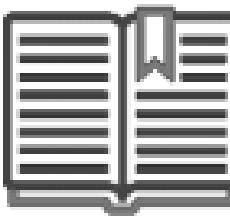
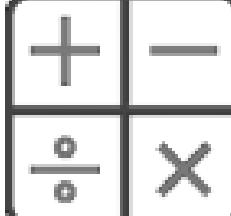
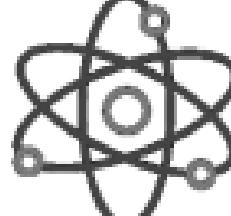




# STATE PARTICIPATION OVERVIEW

# CONTENT AREAS

**Table 1.** The Board's Content Area and Grade Expectations

Content Area	English Language Arts (ELA)	Mathematics	Science	English Language Proficiency (ELP)
				
<b>Adopted Standards</b>	<a href="#">10.53.501–517</a>	<a href="#">10.53.401–413</a>	<a href="#">10.53.801–810</a>	<a href="#">10.53.301–311</a>
<b>Tested Grades</b>	3–8 & 11	3–8 & 11	5, 8, 11	K–12

# WHAT PROGRAMS USE THIS STATEWIDE ASSESSMENT DATA

**Figure 1. State and Federal Consolidated State Plan Information Flow**

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**US Department of Education**      **Office of Public Instruction**      **Montana School Districts**

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# MONTCAS: THE ASSESSMENTS

**Table 2.** Montana Selected State Assessments

<a href="#"><u>Smarter Balanced</u></a>	<a href="#"><u>MSAA</u></a>	<a href="#"><u>ACT</u></a>
<b>SBAC</b> Smarter Balanced Assessment Consortium	<b>MSAA</b> Multi State Alternate Assessment	<b>ACT</b> with Writing American College Testing
General math and reading/language arts assessment for academic achievement reporting in Grades 3–8.	Alternate math and reading/language arts assessment for academic achievement reporting in Grades 3–8 and 11 for Students with Significant Cognitive Disabilities (SwSCD).	General math, reading/language arts, and science assessment for academic achievement reporting in Grade 11.
<a href="#"><u>MSA</u></a>	<a href="#"><u>AMSA</u></a>	<a href="#"><u>ACCESS for ELLs 2.0</u></a>
<b>MSA</b> Montana Science Assessment	<b>AMSA</b> Alternate Montana Science Assessment	<b>ACCESS for ELLs</b> English Language Learners
General science assessment for academic achievement reporting in Grades 5 and 8.	Alternate science assessment for academic achievement reporting in Grades 5, 8, and 11 for Students with Significant Cognitive Disabilities (SwSCD).	English Language Proficiency assessment for academic achievement reporting for English learners in Grades K–12.

# WHAT STUDENTS ARE EXPECTED TO TEST?

Accredited school students

95% of all students

95% of student subgroups in each of the required content areas.

## Special Circumstances



### APPENDIX H Special Circumstances for Test Registration and Participation

Effective February 1, 2021

**General Guideline for Student Participation:**  
If the student is enrolled in an accredited school in AIM/Infinite Campus with a primary enrollment and also included in MAEFARS for purposes of determining the Average Number Belonging (ANB), then the OPI expects the student to participate in state assessments.

Special Circumstance	Test Registration and Participation Explanation
English Learner Students	English Learners are only exempted from reading/language arts portion of the challenging academic content subject assessments if the child is enrolled within a U.S. school for less than 12 months. (Note: English Learners must take the mathematics and science assessments regardless of when they entered the U.S. do not submit a medical exemption for these students.)
Homebound	Students enrolled in a homebound setting receive specialized services in the student's home or other designated setting such as a hospital because the IEP team determined homebound is the most appropriate placement based on the student's individual health and/or academic needs. (Note: Student is entitled to all provisions of IDEA. Public school systems shall ensure FAPE is provided in the Least Restrictive Environment (LRE) and procedural safeguards are implemented.)
Homeschool	Students NOT enrolled in a public school system or accredited non-public school because the parent opted not to enroll them and will instead deliver all instruction at home in accordance with state homeschool guidelines. (Note: generally, the child may not participate in state assessments given the test management procedures as outlined above in the General Guideline for Student Participation.)
Part Time Students	May participate if enrolled at least quarter time (180 or more hours) (§20-9-311, MCA).
Digital Academy	Participate if enrolled at least quarter time (§20-9-311, MCA).
Residential Treatment Centers	Participate in state assessments pursuant to §20-2-121(11), MCA in the tested grades under the letter of agreement with the OPI.
Montana Youth Challenge Academy (MYCA) and Job Corps	Students enrolled at MYCA participate if they are enrolled at least quarter time in the accredited parent school all day. Students enrolled at MYCA and Job Corps are listed in the ACT Organization Code on file with ACT as the offsite location has arranged for an ACT-approved test site. Early in the school year, the OPI works with MYCA to provide a list of students registered as Grade 11 students to make them eligible to test in the approved ACT test site. (Note: for state accountability and reporting purposes, these students will be reported to the school that has their primary enrollment listed.)
Private Accredited School Students	Must participate in state assessments for accreditation purposes but are not included for accountability.
Foreign Exchange Students	Participate if the student is enrolled in the AIM/Infinite Campus and included into MAEFARS for purposes of determining the Average Number Belonging (ANB) but are not included for accountability.
Offsite Classrooms	There are several schools in Montana that are considered "offsite classrooms" as opposed to "schools" based on Montana accreditation rules. For the purposes of state assessments, typically these campuses are registered to the test delivery systems under the accredited parent school and are managed locally thereafter. Some assessments like the national assessment (i.e., NAEP) may handle these instances differently based on the location and geographic differences of the location. (Note: for state accountability and reporting purposes, these students will be reported to the school that has their primary enrollment listed.)
Alternative Schools	Montana has several alternative high schools where students are registered and managed separately based on the ACT with Writing options for test administration and proctoring. Early in the school year, alternative high schools work with the OPI to declare the preference for testing at that location and for managing students separately from the accredited parent school. The OPI will provide registration on behalf of these schools who have already been approved by the ACT as separate ACT test sites. (Note: for state accountability and reporting purposes, these students will be reported to the school that has their primary enrollment listed.)

Note: both offsite classrooms and alternative schools under the accreditation rules are considered offsite instructional settings. Definition §20-1-101, MCA: "Offsite instructional setting" means an instructional setting at a location, separate from a main school site, where a school district provides for the delivery of instruction to a student who is enrolled in the district.



# POLICIES AND PROCEDURES FOR PARTICIPATION

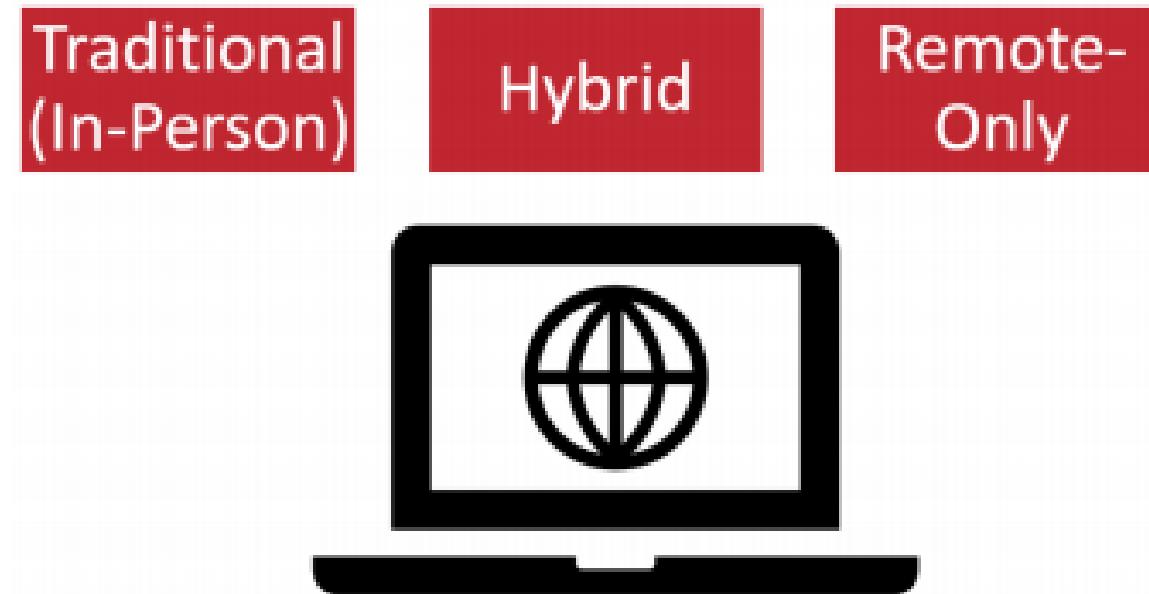
# DETAILS:

Some things we have already talked about:

- Civil rights obligations
- Participation to the fullest extent
- Needs based selection of test settings
- Including students with disabilities
- Including ELs

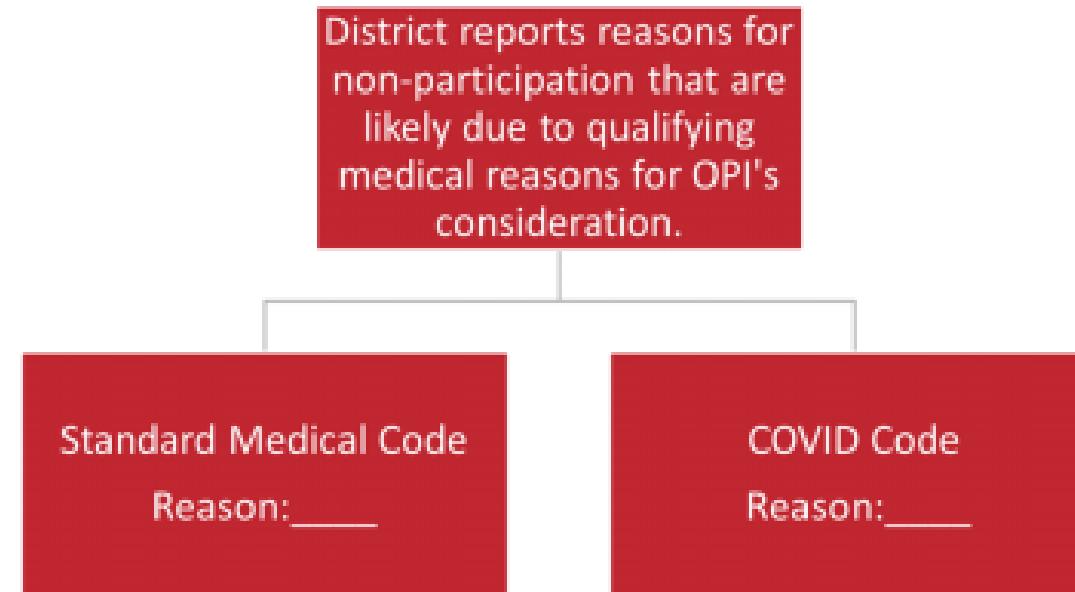
# PARTICIPATION DURING THE PANDEMIC-INSTRUCTIONAL SETTINGS

**Figure 2.** 2020-2021 Simplified Instructional Models



# MEDICAL EXEMPTION POLICY UPDATES

**Figure 3. Simplified MontCAS Application Non-Participation Data Collection**



# STANDARD MEDICAL EXEMPTIONS

## Applying for a Medical Exemption

1. The student's situation is so severe that the child cannot participate in any learning or educational activities in any setting (e.g., home, school, or outplacement facility); and
2. The student cannot participate in any tests, even with adjustments (e.g., accommodations or supports) that could allow them to participate.

# COVID MEDICAL EXEMPTIONS

It is never allowable to exclude students based on the difficulty in administering the test (e.g., remote learners). Each child must be provided the opportunity, but if they are unable to participate in the test due to either a personal or family COVID-related reason the one-year medical exemption for COVID-related reasons may qualify (see Appendix A–C for more instruction and guidance).

# REPORTING MEDICAL EXEMPTIONS

 <p><b>Montana</b> Office of Public Instruction <a href="http://opi.mt.gov">opi.mt.gov</a> Elsie Arntzen, Superintendent</p>	<p><b>APPENDIX A</b> SCHOOL DISTRICT SAMPLE OF DOCUMENTATION SCHOOL YEAR 2020-2021 February 1, 2021</p>
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## Request for Medical Exemption from State Assessments

### [DISTRICT NAME] MEDICAL PROVIDER FORM

In Montana, state law and accreditation rules require all students to participate in the Board-approved grades and content specific state assessments. The Montana Office of Public Instruction (OPI) recognizes there may be circumstances beyond the school district's control when a student cannot be assessed at any time during the testing window due to a significant medical emergency (e.g., a student is hospitalized due to an accident). In rare occasions where a student is unable to participate in the assessments, the school must document these circumstances according to the OPI participation policies and report them in the MontCAS Application.

**What is a Medical Exemption?** Students may receive a medical exemption if they cannot participate in a state assessment during the testing window (including make-up dates) due to a significant qualifying medical event. Examples of a significant medical emergency include a serious car accident, hospitalization, severe trauma, mental health crisis that is dangerous to self or others, or placement in hospice care. Generally, if the student is able to receive instruction during the testing window, the student should be able to participate in assessment. An injured student can often participate in a state assessment with accommodations.

**Note:** This form is intended to assist school districts with the documentation for these qualifying medical reasons locally.

**District Directions:** Give this form to the medical professional (e.g., physician/mental health professional). Once signed, retain a copy for the student's records. Do not send this form to the OPI. School districts are encouraged to retain the medical reason documentation locally for a period of three years as the OPI reserves the right to audit districts to ensure compliance with the requirement to retain signed copies of all applicable forms for up to three years. Non-participation due to a medical reason must be determined between the family, medical provider, and the school district.

**Provider Directions:** After reading the information below, indicate whether or not you agree or disagree with each assurance, initial each statement, and sign and date the bottom of this form.

#### Student Information

Last Name:		First Name:		Middle Initial:	
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Medical Provider's Assurance on Recommended Medical Exemption:	Agree (Y/N)	Disagree (Y/N)		
This student is experiencing a serious illness or medical emergency.	<input type="checkbox"/>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	No
This is a rare and unique situation in which the student is unable, for medical reasons, to participate in any part of the state assessment.	<input type="checkbox"/>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	No
This student cannot receive standard instruction or participate in state assessments during the testing window even with adjustments to their school schedule or location.	<input type="checkbox"/>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	No
This student cannot take the state assessment, even with accommodations or other supports.	<input type="checkbox"/>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	No
I am a licensed medical provider.	<input type="checkbox"/>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/>	No

#### Medical Provider Information

Printed Name of Medical Provider:	
Signature of Medical Provider:	
Date:	



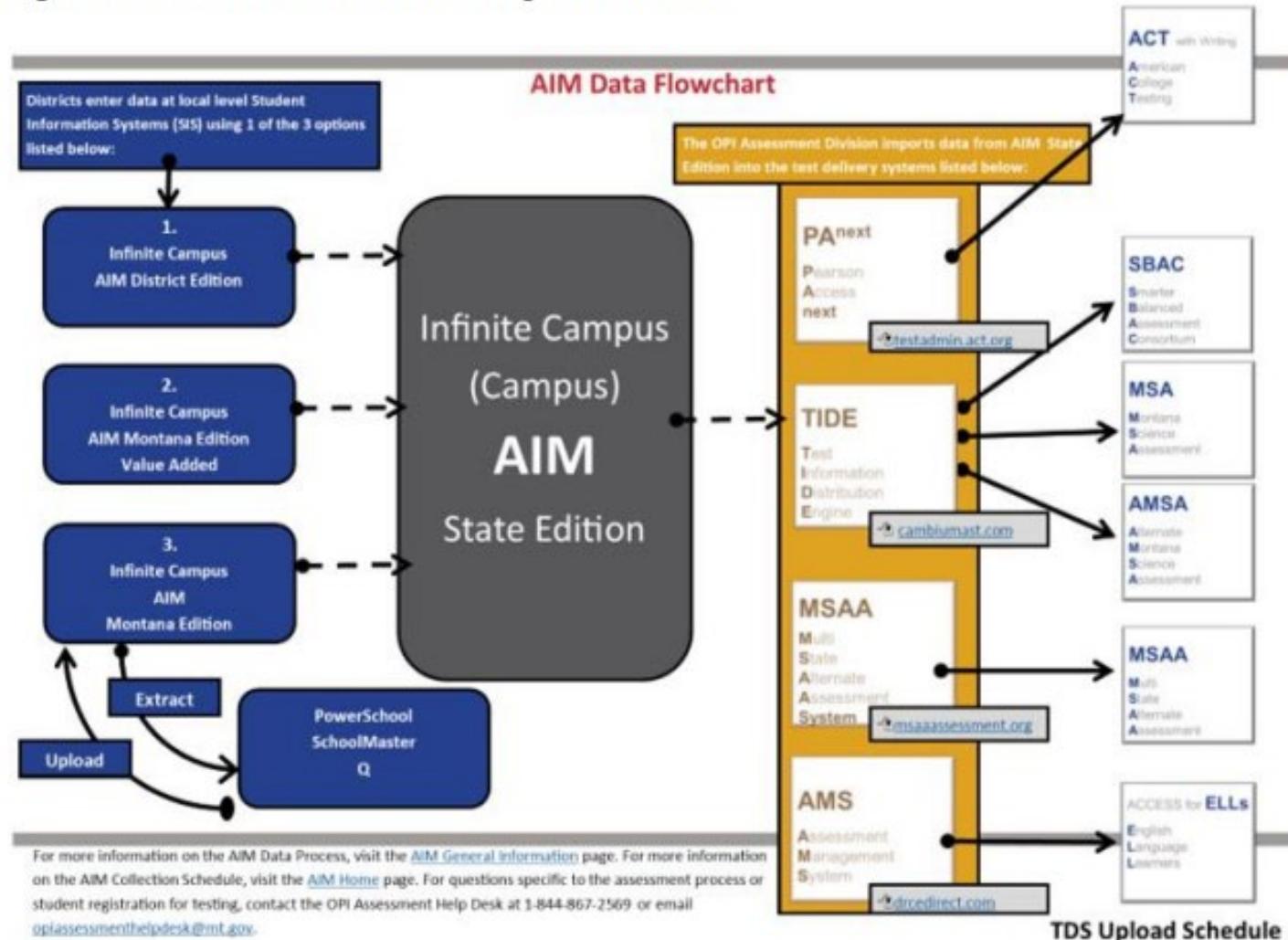
# FACTS ABOUT STATE SELECTED ASSESSMENTS



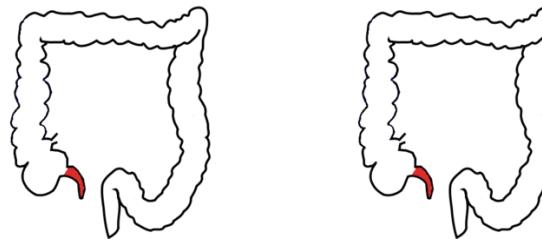
# STUDENT TEST REGISTRATION PROCESS

# AIM DATA FLOW FOR REGISTRATION

**Figure 4.** MontCAS State Assessment Registration Process



# APPENDICES!



## APPENDICES

[Appendix A: Medical Exemption Medical Professional \(Sample Form\)](#)

[Appendix B: Medical Exemption Parent-Family \(Sample Form\)](#)

[Appendix C: Medical Exemption MontCAS Application Reporting Instructions](#)

[Appendix D: TIDE Student Data Upload Process](#)

[Appendix E: ACT Student Data Upload Process](#)

[Appendix F: MSAA Student Data Upload Process](#)

[Appendix G: ACCESS for ELLs Student Data Upload Process](#)

[Appendix H: Special Circumstances for Test Registration and Participation](#)

QUESTIONS? THOUGHTS?  
COMMENTS?

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[yfield@mt.gov](mailto:yfield@mt.gov)

