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Emergency School Closure

There are a wide variety of reasons that may drive the decisions to close a school. After that decision has been made and the closure is facilitated for staff, students, and the community, there are several other topics that will need the consideration of the district administration and possibly the local Board of Trustees.

These topics include:

1. Consideration of the authority allowed by statute for a school closure and the steps that need to be taken to ensure compliance.
2. The possible fiscal impact of a prolonged closure.
3. Reporting attendance following a closure.
4. Compensating employees over the term of the closure.
5. Transportation implications relative to reimbursement.

Authority To Close A School

MCA 20-9-806 School closure by declaration of emergency provides the statutory basis and procedure for a school closure. This statute also speaks to the issue of aggregate hours.

That being said, there is no requirement for the Trustees to declare an emergency for a school closure if the school conducts the minimum aggregate hours required by MCA 20-1-301 School fiscal year.

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.
- (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.

20-9-806. School closure by declaration of emergency.

- (1) (a) Except as provided in subsection (2), if a school is closed by reason of an unforeseen emergency which results in a declaration of emergency by the board of trustees, the trustees may later adopt a resolution that a reasonable effort has been made to reschedule the pupil-instruction time lost because of the unforeseen emergency. If the trustees adopt the resolution, the pupil-instruction time lost during the closure need not be rescheduled to meet the minimum

requirement for aggregate hours that a school district must conduct during the school year in order to be entitled to full annual equalization apportionment.

(b) At least 3 school days or the equivalent aggregate hours must have been made up before the trustees can declare that a reasonable effort has been made.

- (2) The board of trustees may close school for 1 school day each school year because of an unforeseen emergency and may not be required to reschedule the pupil-instruction time lost because of the unforeseen emergency.

We suggest that Trustees be judicious when considering whether or not to act on a declaration of emergency and keep in mind that the aggregate hour requirement could eliminate the need to take this action. MCA 20-9-801 through 20-9-806 are the relevant Montana Statutes that speak to Emergency School Closure in the event that the closure is prolonged and fiscal considerations become an issue.

20-9-801. Purpose.

This part governs a school district's entitlement to state equalization apportionment funds for any school year during which the school district is unable to conduct the minimum aggregate hours by grade required by 20-1-301 by reason of one or more unforeseen emergencies. The provisions of this part must be narrowly interpreted.

20-9-802. Definitions.

As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Declaration of emergency" means a declaration by a board of trustees that an unforeseen emergency has occurred in the district.
- (2) "Reasonable effort" means the rescheduling or extension of the school district's instructional calendar in an effort to attain the minimum aggregate hours required by law by:
 - (a) extending the school year 12 hours for 1st through 3rd grades and 18 hours for 4th through 12th grades or the equivalent aggregate hours of pupil instruction beyond the last scheduled day; or
 - (b) the use of scheduled vacation days.
- (3) "School day" means the school day set by the trustees as provided in 20-1-302.
- (4) "Unforeseen emergency" means a fire, flood, explosion, storm, earthquake, riot, insurrection, community disaster, or act of God or a combination of the foregoing that acts as a principal cause for a school district's inability to conduct one or more scheduled school days.

20-9-805. Rate of reduction in annual apportionment entitlement.

- (1) Except as provided in 20-9-806(2), for each hour short of the minimum number of aggregate hours required by law that a school district fails to conduct by reason of one or more unforeseen emergencies, the superintendent of public instruction shall reduce the equalization apportionment and entitlement of the district for that school year by a proportionate amount.
- (2) Kindergarten, grade 1 through 3, and grade 4 through 12 programs must be considered separately for the purpose of computing compliance with minimum aggregate hour requirements and any loss of apportionment.

Reporting Attendance and Managing Enrollment During A School Closure

If a school is closed for a short period of time and there is no need for the Trustees to take any action and there are no negative implications on aggregate hours, the day(s) the school is closed would be instructional days and students should be officially marked Absent-Excused.

If the need arises to make up the days of school closure, then the days the school is closed are ignored for attendance purposes, as the scheduled make-up days are considered replacement days for the days missed and attendance is taken for those days using normal procedures. If school is closed on an official count day there is nothing that needs to be done, as this process is for reporting enrollment.

Compensating Employees During A School Closure

We encourage school districts to be prepared through pre-planning. We suggest you review all collective bargaining agreements (CBA) for language that may come into effect due to a closure and employees not being able to work. Whether there is language or not, we recommend that you visit employee group leaders and determine a plan regarding compensation. Keep 20-1-302 and 20-1-303 in mind when planning to address this issue.

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.

20-1-303. Conduct of school on Saturday or Sunday prohibited -- exception.

Except as provided in this section, pupil instruction may not be conducted on Saturday or Sunday. In emergencies, pupil instruction may be conducted on a Saturday when it is approved by the trustees of the school district in accordance with the policies adopted by the board of public education.

Transportation

There is no state/county reimbursement if school busses transporting students to school or home do not run. If a school were to close at noon but still make the bus runs, reimbursement would occur because the full route was run. The next day of the closure there would be no reimbursement paid. Same is true for the individual contracts. If a parent brings their child to school and returns to pick up the child at noon when the school closes – reimbursement will occur as usual. The next day of the school closure there would be no reimbursement. If the service is contracted, the district would pay the contractor based on the terms of the contract between the contractor and the district. This could include paying for days the school is not open.

For questions about closing a school, contact our Legal Division at 444-4402 and School Finance at 444-3249.