



# Non-Operating Districts

## **Q: What is a Nonoperating District**

A “Nonoperating district” is a school district that does not run classes or have students. Students attend neighboring school districts as nonresidents.

## **Q: What Causes Districts to Become Nonoperating?**

Districts become nonoperating when the trustees of the district determines it is in the best interest of the pupils affected. [20-6-509, MCA](#) states that the board of trustees may close a school.

## **Q: What is the Process for Becoming a Nonoperating District?**

- A. Pass a resolution at a board meeting stating the name of the school, the reason for going nonoperational and when the school will go into nonoperational status.
- B. Send a letter of intent on letterhead with the resolution and the board minutes to the Office of Public Instruction.
- C. On the first day of the first school year in nonoperating status, the trustees must establish a nonoperating fund and transfer all fund balances from all other funds of the district into the nonoperating fund, except debt service and miscellaneous programs fund per [20-9-505, MCA](#).

## **Q: What is a Nonoperating Fund?**

The nonoperating fund is a budgeted school district fund. The trustees must set an official budget for the fund. The revenue sources are taxes, non-levy revenues (such as interest), and county and state transportation aid. The fund may hold an amount equal to the prior year general fund operating reserve as operating reserve at the beginning of the first year. At the end of the first year, all remaining funds must be “reappropriated” to fund the budget of the 2<sup>nd</sup> year. The trustees of a nonoperating district shall adopt a nonoperating school district budget per [20-9-506, MCA](#).

## **Q: Do Nonoperating Schools Receive State Per-Pupil Funding?**

Nonoperating schools are not funded by the state, except that transportation aid is still available.

## **Q: How Does a Nonoperating School Provide Education for Resident Students?**

The resident students attend neighboring schools. The nonoperating district should initiate attendance agreements with the neighboring school for each student, is responsible for tuition, and may transport the student to the other school.

To pay tuition, the district signs an attendance agreement, and adds the cost to the budget for the nonoperating fund. Usually, tuition is paid the year after the student attends. A nonoperating district may choose to budget and pay for the tuition in the year of attendance to avoid having tuition obligations continue the year after abandonment. The taxes levied to support the nonoperating fund are then used to pay tuition to the school the student attends.

To transport students, the nonoperating district may either make an agreement with the district of attendance that the transportation will be handled by the school of attendance, or the nonoperating district may continue to run a bus and/or offer individual contracts to reimburse parents for mileage. The allowable state and county reimbursement and any additional costs to be paid by district taxes are budgeted, collected, and spent through the nonoperating fund.

### **Q: How Long Can a School District Remain Nonoperating?**

#### Elementary Districts (20-6-209, MCA)

An elementary district must close permanently if:

- a) A district has not operated for at least the minimum aggregate hours for each of 3 consecutive years
- b) There are not sufficient residents to act as trustees and clerk so a legal board can be organized

If a district has not operated for 2 years, the county superintendent must notify the district before the first day of the 3<sup>rd</sup> year that if they do not operate for the minimum aggregate hours in the 3<sup>rd</sup> year, the school will be abandoned and attached. The abandonment and attachment are effective on July 1 following the 3<sup>rd</sup> year. If the county superintendent fails to make notification, the abandonment and attachment still becomes effective.

For example: if the 3<sup>rd</sup> year ends June 30, 2024, the abandonment and attachment is effective July 1, 2024.

If there are not enough residents to form a legal board, the district must be abandoned and attached immediately.

Per [20-6-502, MCA](#) the district must have 2 students to reopen. When the school district reopens, the trustees must reestablish a general fund and transfer the balance of the nonoperating fund into it and use it as the general fund operating reserve.

If trustees want to reopen a nonoperating school during the 1st or 2nd year of nonoperating status instead of at the opening of the next school year, they can do so if the school qualifies as an isolated school by applying as provided under [20-6-502\(4\)\(b\), MCA](#).

#### High School (20-6-307, MCA)

A high school district must be abandoned and attached if the district fails to conduct a high school for 1 year. Within 6 months of the high school failing to operate, the county superintendent must order the high school abandoned and attached. The county superintendent will notify the district at least 20 days before issuing the abandonment and attached order.

According to [20-9-505, MCA](#) the county superintendent's order will also order the abandonment and

attachment of the elementary school(s) in the abandoned district to another high school district of the county.

**Q: What happens to the Cash when a Nonoperating School District Attaches to Another School District (20-6-413, MCA)?**

Cash must first be used to pay any debts of the nonoperating district (e.g., including bonded indebtedness, tuition, transportation costs, payments due on contracts, payroll and benefits owed). Any debt service fund cash must first be used to pay bonded indebtedness.

If cash remains after settling all debts, the cash must be transferred to the trustees of the district or districts assuming the territory of the closed district. When 2 or more districts are assuming the territory, the cash is prorated based on the taxable value of the attaching properties of the closed districts.

Any tuition still owed by the closing district must remain the obligation of the taxable property of the closing district (i.e., require a special levy for tuition on ONLY the taxable valuation in the closed district territory), unless the district of attachment assumes the debt.

**Q: What are the Nonoperating District's Options for Disposing of the School Property?**

Before closing, the regulations on district purchase, use and disposal of property are effective. [20-6-603, MCA](#) and [20-6-604, MCA](#) list requirements for all district trustees' disposal and sale of property, including publishing and hearing requirements (the laws do not state different requirements for a closing district while in nonoperating status).

Most closing districts contribute all remaining property to the district to which they attached. The trustees of that district then determine how it is subsequently used.

Once the district is closed, the law is specific. [20-6-417, MCA](#) requires that "whenever district boundaries are changed," the real and personal property of the district involved in the boundary change become the property of the district that acquired the new territory.

For more information and guidance please call **Andrea Mohammadi** (406) 444-1960 or **Alivia Skeslien-Jenkins** (406) 444-1964.