



**MONTANA  
ADMINISTRATIVE  
REGISTER**



**OFFICE OF PUBLIC INSTRUCTION**

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**NOTICE OF PROPOSED RULEMAKING**

**MAR NOTICE NO. 2025-846.1**

**Summary**

Background checks for certain public school employees and volunteers

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**Hearing Date and Time**

Friday, January 9, 2026, at 10:00 a.m.

**Virtual Hearing Information**

The Zoom meeting can be accessed at:

<https://mt-gov.zoom.us/j/84752140305pwd=RbhO0Gp9y6DwBamYvWBYb4gWhllrM7.1>

Via telephone at +1 646 558 8656

Meeting ID: 847 5214 0305

Password: 604981

**Comments**

Comments may be sent to the contact person below. Comments must be received by Friday, January 16, 2026, at 5:00 p.m.

## **Accommodations**

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Wednesday, January 7, 2026, at 5:00 p.m.

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## **Contact**

John Klein  
(406) 444-2749  
John.Klein@mt.gov

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## **General Reasonable Necessity Statement**

The proposed new rules would provide guidance to public schools and districts in the state on 20-3-323 and 20-3-324, MCA, as amended by House Bill 745 during the 2025 Legislative Session, on how student protection policies must ensure students are not left unattended with individuals at public schools and districts across the state who have not undergone fingerprint-based national criminal history background checks.

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## **Rulemaking Actions**

### **ADOPT**

The rules proposed to be adopted are as follows:

## **NEW RULE 1 DEFINITIONS**

For the purpose of implementing the provisions of 20-3-323(1)(d), MCA, the following definitions apply:

- (1) "Contact" means any direct, personal interaction that involves communication or engagement of any kind between an adult and a student.
- (2) "In school" means physically present in a public school, an offsite instructional setting as defined in 20-1-101, MCA, or a work-based learning setting as provided in 20-7-1510, MCA, for which school credit is granted.
- (3) "In transit to a school-sponsored activity" means while a student is being provided transportation by a school district employee or a private contractor on a bus or other vehicle owned or contracted by the school district.

- (4) "Momentary absence" means brief, temporary intervals during which a second adult is not physically present. Such absences are short, typically involving situations like stepping away for a bathroom break or addressing an urgent matter.
- (5) "Public environment" means a location where multiple students are present or, in the context of work-based learning or school-sponsored activities, a space where the general public is allowed to enter. These environments are characterized by clear visibility and accessibility, allowing students to be seen or monitored by other students, staff members, or members of the public.
- (6) "School-sponsored activity" means any event, program, or function that is organized, funded, or endorsed by a school district.
- (7) "Unsupervised" means where one or more students are left unattended and alone in the physical presence of an adult.

**Authorizing statute(s):** 20-3-323, 20-3-324, MCA

**Implementing statute(s):** 2-4-308, 20-3-106, MCA

## **NEW RULE 2 REQUIREMENT FOR STUDENT PROTECTION POLICY**

- (1) A student protection policy adopted pursuant to 20-3-323, MCA, must ensure that students do not have unsupervised contact with an adult who has not undergone a fingerprint-based national criminal history background check that complies with the requirements of 20-3-323(1)(d), MCA. This means that a student may not be left unattended and alone in the physical presence of an adult who has not undergone such a background check, except for in the case of a momentary absence.
- (2) When the fingerprint background check results are reviewed by someone other than the trustees or the superintendent of the district under 20-3-323(d)(ii), MCA, such individuals designated by the trustees to review the results of the background check are limited to individuals authorized by law to receive, review and share Criminal History Record Information (CHRI) with the district.
- (3) Any individual reviewing the fingerprint background check results under (1) must possess a valid authorization from the person being fingerprinted to review and share the results with the district.

**Authorizing statute(s):** 20-3-323, 20-3-324, MCA

**Implementing statute(s):** 2-4-308, 20-3-106, MCA

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### **Small Business Impact**

The Office of Public Instruction (OPI) has determined that the adoption of the above-referenced rules will not significantly and directly impact small businesses. While small businesses that participate in work-based learning or school field trips may be impacted by the legislation that this rule implements, the proposed rules do not add any additional requirements.

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### **Bill Sponsor Notification**

The bill sponsor contact requirements apply and have been fulfilled. The primary bill sponsor was contacted by email on December 2, 2025.

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### **Interested Persons**

OPI maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person listed above or may be made by completing a request form at any rules hearing held by the department.

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### **Rule Reviewer**

Aislinn Brown

### **Approval**

Susie Hedalen, Superintendent of Public Instruction