



# **Montana Compilation of School Discipline Laws and Regulations**

Prepared: January 31, 2017

## ***Introduction***

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

## ***Notes & Disclaimers***

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of January 2017. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

Note: Per state review, Montana is a "local control" state, meaning that many public education decisions are made by school district administrations and school boards.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

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**Table of Contents**

- Montana State Codes Cited..... 1**
- General Provisions ..... 3**
  - Authority to develop and establish rules of conduct..... 3
  - Scope ..... 4
  - Communication of policy ..... 5
- In-School Discipline ..... 6**
  - Use of multi-tiered discipline approaches ..... 6
  - Teacher authority to remove students from classrooms ..... 6
  - Alternatives to suspension ..... 6
  - Use of corporal punishment ..... 6
  - Use of student and locker searches ..... 7
  - Other in-school disciplinary approaches ..... 7
- Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements ..... 9**
  - Grounds for possible suspension or expulsion ..... 9
  - Grounds for mandatory suspension or expulsion ..... 9
  - Limitations, conditions or exclusions for use of suspension and expulsion ..... 10
  - Administrative procedures related to suspension and expulsion ..... 10
  - In-school suspension ..... 10
  - Return to school following removal ..... 11
  - Use of restraint and seclusion ..... 11
  - Alternative placements ..... 12
- Disciplinary Approaches Addressing Specific Infractions and Conditions ..... 14**
  - Firearms (as required by the Gun-Free Schools Act) ..... 14
  - Other weapons ..... 15
  - Students with chronic disciplinary issues ..... 16
  - Attendance and truancy ..... 16
  - Substance use ..... 17
  - Bullying, harassment, or hazing ..... 18
  - Other special infractions or conditions ..... 19
- Prevention and Behavioral Interventions (Non-Punitive) ..... 20**
  - Prevention ..... 20
  - Behavioral interventions and student support services ..... 20
  - Professional development ..... 20
- Monitoring and Accountability ..... 21**
  - Formal incident reporting of conduct violations ..... 21
  - Parental notification ..... 21
  - Reporting and referrals between schools and law enforcement ..... 23
  - Disclosure of school records ..... 23
  - Data collection, review, and reporting of disciplinary policies and actions ..... 26

<b>School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers</b> .....	<b>27</b>
Authority and power to implement school arrest.....	27
Certification or training .....	28
MOUs, authorization, and/or funding .....	28
<b>State Education Agency Support</b> .....	<b>30</b>
State model policies and implementation support .....	30
Funding appropriations .....	30
<b>Other or Uncategorized</b> .....	<b>31</b>
Professional immunity or liability.....	31
Community input or involvement.....	31
Other or Uncategorized.....	31
<b>State-Sponsored, Publicly Available Websites or Other Resources on School Discipline</b> .....	<b>32</b>

## ***Montana State Codes Cited***

### **Montana Revised Statutes**

#### **Title 20. Education**

##### **Chapter 1. General Provisions**

##### **Part 2. Miscellaneous Provisions**

- [20-1-213.](#) Transfer of school records  
[20-1-220.](#) Use of tobacco product in public school building or on public school property prohibited

##### **Chapter 4. Teachers, Superintendents, and Principals**

##### **Part 3. Teachers' Powers, Duties, and Privileges**

- [20-4-302.](#) Discipline and punishment of pupils -- definition of corporal punishment -- penalty – defense

##### **Part 4. District Superintendent and Principal**

- [20-4-402.](#) Duties of district superintendent or county high school principal  
[20-4-403.](#) Powers and duties of principal

##### **Chapter 5. Pupils**

##### **Part 1. Attendance**

- [20-5-104.](#) Attendance officer  
[20-5-105.](#) Attendance officer – powers and duties  
[20-5-106.](#) Truancy  
[20-5-107.](#) Incapacitated and indigent child attendance

##### **Part 2. Duties – Prohibitions – Penalties**

- [20-5-201.](#) Duties and sanctions  
[20-5-202.](#) Suspension and expulsion  
[20-5-203.](#) Secret organizations prohibited  
[20-5-207.](#) Short title  
[20-5-208.](#) Definitions  
[20-5-209.](#) Bullying of student prohibited  
[20-5-210.](#) Enforcement -- exhaustion of administrative remedies

##### **Part 5. Enrollment of Pupil by Caretaker Relative**

- [20-5-502.](#) Enrollment by caretaker relative – residency – affidavit

#### **Title 45. Crimes**

##### **Chapter 8. Offenses Against Public Order**

##### **Part 3. Weapons**

- [45-8-361.](#) Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized – definitions

## **Montana Regulations**

### **10. Education**

#### **Chapter 16. Special Education**

##### **Subchapter 33. Services**

[10.16.3346.](#) Aversive treatment procedures

#### **Chapter 55. Standards of Accreditation**

##### **Subchapter 7. School Leadership**

[10.55.701.](#) Board of trustees

[10.55.719.](#) Student protection procedures

##### **Subchapter 8. Educational Opportunity**

[10.55.801.](#) School climate

##### **Subchapter 9. Academic Requirements**

[10.55.909.](#) Student records

[10.55.910.](#) Student discipline records

## **General Provisions**

### **Authority to develop and establish rules of conduct**

#### **LAWS**

##### **20-5-202. Suspension and expulsion.**

(1) [...] The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil.

(2) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the appropriate local law enforcement agency. [...]

##### **20-4-402. Duties of district superintendent or county high school principal.**

The district superintendent or county high school principal is the executive officer of the trustees and, subject to the direction and control of the trustees, the executive officer shall:

- (1) have general supervision of all schools of the district and the personnel employed by the district;
- (2) implement and administer the policies of the trustees of the district;
- (3) develop and recommend courses of instruction to the trustees for their consideration and approval in accordance with the provisions of 20-7-111;
- (4) select all textbooks and submit the selections to the trustees for their approval in accordance with the provisions of 20-7-602;
- (5) select all reference and library books and submit the selections to the trustees for their approval in accordance with provisions of 20-7-204;
- (6) have general supervision of all pupils of the district, enforce the compulsory attendance provisions of this title, and have the authority to suspend for good cause a pupil of the district;
- (7) report the pupil attendance, absence, and enrollment of the district and other pupil information required by the report form prescribed by the superintendent of public instruction to the county superintendent, or county superintendents when reporting for a joint district; and
- (8) perform other duties in connection with the district as the trustees may prescribe.

##### **20-4-403. Powers and duties of principal.**

(1) Whenever the trustees of a district employ and appoint a school principal but do not employ and appoint a district superintendent, such principal shall perform the duties of a district superintendent as prescribed in subsections (4), (5), (6), (7), and (8) of 20-4-402 and shall have general supervision of such school and the personnel assigned to such school.

(2) If granted authority by the board of trustees, a school principal in a district that does employ and appoint a district superintendent may suspend for good cause any pupil of the school where the principal is employed.

#### **REGULATIONS**

##### **10.55.719. Student Protection Procedures.**

(1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic

communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

- (a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;
- (b) substantially and materially interferes with access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of the school. [...]

#### **10.55.801 School climate.**

(1)The local board of trustees shall:

- (a) develop policies, procedures, and rules that respect the rights of all learners, and promote an awareness of and concern for the well-being of others, and address bullying, intimidation, and harassment of students and school personnel;

## **Scope**

### **LAWS**

#### **20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.**

(1) A teacher or principal has the authority to hold a pupil to a strict accountability for disorderly conduct in school, on the way to or from school, or during intermission or recess.

#### **20-5-201. Duties and sanctions.**

(1) A pupil:

- (a) shall comply with the policies of the trustees and the rules of the school that the pupil attends;
- (b) shall pursue the required course of instruction;
- (c) shall submit to the authority of the teachers, principal, and district superintendent of the district; and
- (d) is subject to the control and authority of the teachers, principal, and district superintendent while the pupil is in school or on school premises, on the way to and from school, or during intermission or recess.

### **REGULATIONS**

#### **10.55.719. Student protection procedures.**

(1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

- (a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;
- (b) substantially and materially interferes with access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of the school. [...]

(4) The behavior prohibited in (1) includes but is not limited to conduct:

- (a) in a classroom or other location on school premises;

(b) during any school-sponsored program, activity, or function where the school is responsible for the student including when the student is traveling to and from school or on a school bus or other school-related vehicle; or

(c) through the use of electronic communication, as defined in 45-8-213, MCA, that substantially and materially disrupts the orderly operation of the school or any school-sponsored program, activity, or function where the school is responsible for the student.

## **Communication of policy**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **10.55.701 Board of trustees.**

(2) Each school district shall make available to the staff and public:

(f) policies addressing bullying, hazing, intimidation, and harassment of students and meeting the requirements in ARM 10.55.719;

## ***In-School Discipline***

### **Use of multi-tiered discipline approaches**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Teacher authority to remove students from classrooms**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Alternatives to suspension**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Use of corporal punishment**

#### **LAWS**

#### **20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.**

(2) For the purposes of this section, "corporal punishment" means knowingly and purposely inflicting physical pain on a pupil as a disciplinary measure.

(3) A person who is employed or engaged by a school district may not inflict or cause to be inflicted corporal punishment on a pupil.

(4) (a) A person who is employed or engaged by a school district may use physical restraint, defined as the placing of hands on a pupil in a manner that is reasonable and necessary to:

- (i) quell a disturbance;
- (ii) provide self-protection;
- (iii) protect the pupil or others from physical injury;
- (iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control of the pupil;
- (v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or

(vi) protect property from serious harm.

(b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary.

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or more than \$500.

## **REGULATIONS**

No relevant regulations found.

## **Use of student and locker searches**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

No relevant regulations found.

## **Other in-school disciplinary approaches**

### **LAWS**

#### **20-5-201. Duties and sanctions.**

(4) (a) A school district may withhold the grades, diploma, or transcripts of a pupil who is responsible for the cost of school materials or the loss or damage of school property until the pupil or the pupil's parent or guardian satisfies the obligation.

(b) A school district that decides to withhold a pupil's grades, diploma, or transcripts from the pupil and the pupil's parent or guardian pursuant to subsection (4)(a) shall:

(i) upon receiving notice that the pupil has transferred to another school district in the state, notify the pupil's parent or guardian in writing that the school district to which the pupil has transferred will be requested to withhold the pupil's grades, diploma, or transcripts until any obligation has been satisfied;

(ii) forward appropriate grades or transcripts to the school to which the pupil has transferred;

(iii) at the same time, notify the school district of any financial obligation of the pupil and request the withholding of the pupil's grades, diploma, or transcripts until any obligations are met;

(iv) when the pupil or the pupil's parent or guardian satisfies the obligation, inform the school district to which the pupil has transferred; and

(v) adopt a policy regarding a process for a pupil or the pupil's parent or guardian to appeal the school district's decision to request that another school district withhold a pupil's grades, diploma, or transcripts.

#### **20-5-202. Suspension and expulsion.**

(4) Nothing in this section prevents a school district from:

(a) offering instructional activities related to firearms or allowing a firearm to be brought to school for instructional activities sanctioned by the district; or

(b) providing educational services in an alternative setting to a student who has been expelled from the student's regular school setting.

**REGULATIONS**

No relevant regulations found.

## ***Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements***

### **Grounds for possible suspension or expulsion**

#### **LAWS**

##### **20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.**

(2) A pupil who disobeys the provisions of this section, shows open defiance of the authority vested in school personnel by this section, defaces or damages any school building, school grounds, furniture, equipment, or book belonging to the district, harms or threatens to harm another person or the person's property, or otherwise violates district policy regarding pupil conduct is subject to punishment, suspension, or expulsion under the provisions of this title. When a pupil defaces or damages school property, the pupil's parent or guardian is liable for the cost of repair or replacement upon the complaint of the teacher, principal, superintendent, or any trustee and the proof of any damage.

##### **20-5-202. Suspension and expulsion.**

(1) As provided in 20-4-302, 20-4-402, and 20-4-403, a pupil may be suspended by a teacher, superintendent, or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil.

#### **REGULATIONS**

No relevant regulations found.

### **Grounds for mandatory suspension or expulsion**

#### **LAWS**

##### **20-5-202. Suspension and expulsion.**

(2)(a) [...] A student who is determined to have brought a firearm to school under this subsection must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis. The trustees shall annually review its weapons policy and any policy adopted under this subsection (2)(a) and update the policies as determined necessary by the trustees based on changing circumstances pertaining to school safety.

(b) A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act.

(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a superintendent, or a principal shall suspend immediately for good cause a student who is determined to have brought a firearm to school.

#### **REGULATIONS**

No relevant regulations found.

## **Limitations, conditions or exclusions for use of suspension and expulsion**

### **LAWS**

#### **20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.**

(5) A teacher in a district employing neither a district superintendent nor a principal at the school where the teacher is assigned has the authority to suspend a pupil for good cause. When either a district superintendent or a school principal is employed, only the superintendent or principal has the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county superintendent immediately of the action.

#### **20-5-202. Suspension and expulsion.**

(1) [...] A pupil may be suspended from school for an initial period not to exceed 10 school days. Upon a finding by a school administrator that the immediate return to school by a pupil would be detrimental to the health, welfare, or safety of others or would be disruptive of the educational process, a pupil may be suspended for one additional period not to exceed 10 school days if the pupil is granted an informal hearing with the school administrator prior to the additional suspension and if the decision to impose the additional suspension does not violate the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

### **REGULATIONS**

No relevant regulations found.

## **Administrative procedures related to suspension and expulsion**

### **LAWS**

#### **20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.**

(5) A teacher in a district employing neither a district superintendent nor a principal at the school where the teacher is assigned has the authority to suspend a pupil for good cause. When either a district superintendent or a school principal is employed, only the superintendent or principal has the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county superintendent immediately of the action.

### **REGULATIONS**

No relevant regulations found.

## **In-school suspension**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

No relevant regulations found.

## Return to school following removal

### LAWS

No relevant laws found.

### REGULATIONS

No relevant regulations found.

## Use of restraint and seclusion

### LAWS

#### **20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.**

(4) (a) A person who is employed or engaged by a school district may use physical restraint, defined as the placing of hands on a pupil in a manner that is reasonable and necessary to:

- (i) quell a disturbance;
- (ii) provide self-protection;
- (iii) protect the pupil or others from physical injury;
- (iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control of the pupil;
- (v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or
- (vi) protect property from serious harm.

(b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary.

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or more than \$500.

(8) A person named as a defendant in an action brought under this section may assert as an affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined by the trier of fact.

### REGULATIONS

#### **10.16.3346. Special education. Aversive treatment procedures.**

(1) Positive behavioral interventions based on the results of a functional behavioral assessment shall serve as the foundation for any program utilizing aversive procedures to address the behavioral needs of students. Aversive treatment procedures may be appropriate for an individual student who exhibits behaviors which pose a risk of physical harm to the student or others, or a risk of significant damage to property, or significantly disruptive or dangerous behaviors which cannot be modified solely through the use of positive behavioral interventions. Aversive treatment procedures must be designed to address the behavioral needs of an individual student, be approved by the IEP team, and may not be used as punishment, for the convenience of staff, or as a substitute for positive behavioral interventions.

- (2) Aversive treatment procedures are defined as:
- (a) physical restraint, other than as provided in 20-4-302, MCA, when the IEP team has determined that the frequency, intensity or duration of the restraint warrants an aversive treatment procedure; and
  - (b) isolation time-out which results in the removal of a student to an isolation room under the following conditions:
    - (i) the student is alone in the isolation room during the period of isolation;
    - (ii) the student is prevented from exiting the isolation room during the period of isolation;
    - (iii) the door to the isolation room remains closed during the period of isolation; and
    - (iv) the student is prohibited from participating in activities occurring outside the isolation room and from interacting with other students during the period of isolation.
- (3) Any student in isolation time-out must be under the direct constant visual observation of a designated staff person throughout the entire period of isolation.
- (4) The following procedures are prohibited:
- (a) any procedure solely intended to cause physical pain;
  - (b) isolation in a locked room or mechanical restraint, except in residential treatment facilities and psychiatric hospitals as defined in 20-7-436, MCA, when prescribed by a physician as part of a treatment plan and when implemented in compliance with relevant federal and state law;
  - (c) the withholding of a meal for a period of greater than one hour from its scheduled starting time;
  - (d) aversive mists, noxious odors, and unpleasant tastes applied by spray or other means to cause an aversive physical sensation; and
  - (e) mechanical restraint that physically restricts a student's movement through the use upon the student of any mechanical or restrictive device which is not intended for medical reasons.
- (5) Exclusion time-out is not considered an aversive treatment procedure. Exclusion time-out is defined as any removal of a student from a regularly scheduled activity for disciplinary purposes that does not result in placing the student in an isolation room under all of the conditions described in (2)(b).
- (6) IEPs may include the use of aversive treatment procedures only when:
- (a) subsequent to a functional behavioral assessment, a series of no less than two written positive behavioral intervention strategies, which were designed to target the behavior to be changed, were previously implemented;
  - (b) the IEP team includes a person trained and knowledgeable about best practices in the application of positive behavioral interventions, aversive treatment procedures and nonaversive alternatives for de-escalation of behaviors; and
  - (c) a written behavioral intervention plan using aversive treatment procedures is developed and incorporated as a part of the IEP.

## **Alternative placements**

### **LAWS**

#### **20-5-202. Suspension and expulsion.**

- (4) Nothing in this section prevents a school district from: [...]

(b) providing educational services in an alternative setting to a student who has been expelled from the student's regular school setting.

**REGULATIONS**

No relevant regulations found.

## ***Disciplinary Approaches Addressing Specific Infractions and Conditions***

### **Firearms (as required by the Gun-Free Schools Act)**

#### **LAWS**

##### **20-5-202. Suspension and expulsion.**

(2)(a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school under this subsection must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis. The trustees shall annually review its weapons policy and any policy adopted under this subsection (2)(a) and update the policies as determined necessary by the trustees based on changing circumstances pertaining to school safety.

(b) A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act.

(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a superintendent, or a principal shall suspend immediately for good cause a student who is determined to have brought a firearm to school.

(4) Nothing in this section prevents a school district from:

(a) offering instructional activities related to firearms or allowing a firearm to be brought to school for instructional activities sanctioned by the district;

##### **45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions.**

(1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building.

(3) (a) Subsection (1) does not apply to law enforcement personnel.

(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building.

(4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community.

(b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.

(ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner.

(5) As used in this section:

- (a) "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities. The term does not include a home school provided for in 20-5-109.
- (b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense.

## REGULATIONS

No relevant regulations found.

## Other weapons

## LAWS

### **45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions.**

- (1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building.
- (2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building.
- (3) (a) Subsection (1) does not apply to law enforcement personnel.
- (b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building.
- (4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community.
- (b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner.
- (ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner.
- (5) As used in this section:
- (a) "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities. The term does not include a home school provided for in 20-5-109.
- (b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense.

## REGULATIONS

No relevant regulations found.

## Students with chronic disciplinary issues

### LAWS

No relevant laws found.

### REGULATIONS

No relevant regulations found.

## Attendance and truancy

### LAWS

#### **20-5-105. Attendance officer -- powers and duties.**

The attendance officer of a district:

- (1) must, subject to district policy, be vested with police powers, the authority to serve warrants, and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;
- (2) may, subject to district policy, take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct the child to the school in which the child is or should be enrolled;
- (3) may, subject to district policy, do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;
- (4) may, subject to district policy, institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;
- (5) may, subject to district policy, keep a record of transactions for the inspection and information of the trustees and shall make reports in the manner and to whomever the trustees designate; and
- (6) may, subject to district policy, perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district.

#### **20-5-106. Truancy.**

- (1) For the purposes of this part "truant" or "truancy" means the persistent nonattendance without excuse, as defined by district policy, for all or any part of a school day equivalent to the length of one class period of a child required to attend a school under 20-5-103.
- (2) If an attendance officer discovers a child is truant, the attendance officer may make a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child that the continued truancy of the child may result in the prosecution of the parent, guardian, or other person responsible for the care of the child under the provisions of this section. If the child is discovered to be truant after the attendance officer has made a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child, the attendance officer may require that the parent, guardian, or other person responsible for the care of the child and the child meet with an individual designated by the school district to formulate a truancy plan to address and resolve the truancy. If the parent, guardian, or other person responsible for the care of the child fails to meet with the designated individual or fails to uphold the responsibilities under the provisions of the truancy plan, the attendance officer may refer the matter to the prosecuting attorney in a court of competent jurisdiction for a determination regarding whether to prosecute the parent, guardian, or other person responsible for the care of the child..

(3)(a) If convicted, the person shall be fined not more than \$100, ordered to perform up to 20 hours of community service, or required to give bond in the penal sum of \$100, with sureties, conditioned on the person's agreement to cooperate with the district in implementing the truancy plan provided for in subsection (2) for the remainder of the current school term.

(b) If a person fails to comply with an order of the court issued under subsection (3)(a), the person may be imprisoned in the county jail for a term of not more than 3 days.

(4) (a) If the child is discovered by the attendance officer to be truant on 9 or more days or 54 or more parts of a day in 1 school year, the child may be referred to youth court as habitually truant under Title 41, chapter 5.

(b) Following a referral to youth court under subsection (4)(a), an attendance officer shall inform the youth court of any subsequent trancies by the child, and the youth court may find the child to be a youth in need of intervention pursuant to 41-5-103 and make any of the dispositions provided in 41-5-1512."

#### **20-5-107. Incapacitated and indigent child attendance.**

In lieu of the provisions of 20-5-106 and when an attendance officer is satisfied that a pupil or a child subject to compulsory attendance is not able to attend school because the child does not have the physical capacity or the child is absolutely required to work at home or elsewhere in order to provide support for the child or the child's family, the attendance officer shall report the case to the authorities charged with the relief of the poor. The welfare authorities shall offer relief that will enable the child to attend school. If the parent, guardian, or other person who is responsible for the care of the child denies or neglects the assistance offered to enable the child to attend school, the child must be committed to a state institution, at the discretion of the court.

### **REGULATIONS**

No relevant regulations found.

## **Substance use**

### **LAWS**

#### **20-1-220. Use of tobacco product in public school building or on public school property prohibited.**

(1) An individual may not use a tobacco product in a public school building or on public school property.

(2) Subsection (1) does not apply to the use of a tobacco product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product.

(3) The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

(4) A violation of this section is subject to the penalties provided in 50-40-115.

(5) For the purposes of this section, the following definitions apply:

(a) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

(ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses.

(b) "Tobacco product" means a substance intended for human consumption that contains tobacco, including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

## **REGULATIONS**

No relevant regulations found.

## **Bullying, harassment, or hazing**

### **LAWS**

#### **20-5-207. Short title.**

Sections 20-5-207 through 20-5-210 may be cited as the "Bully-Free Montana Act".

#### **20-5-208. Definition.**

(1) "Bullying" means any harassment, intimidation, hazing, or threatening, insulting, or demeaning gesture or physical contact, including any intentional written, verbal, or electronic communication or threat directed against a student that is persistent, severe, or repeated and that:

- (a) causes a student physical harm, damages a student's property, or places a student in reasonable fear of harm to the student or the student's property;
- (b) creates a hostile environment by interfering with or denying a student's access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of a school.

(2) The term includes retaliation against a victim or witness who reports information about an act of bullying and includes acts of hazing associated with athletics or school-sponsored organizations or groups.

#### **20-5-209. Bullying of student prohibited.**

Bullying of a student enrolled in a public K-12 school by another student or an employee is prohibited.

#### **20-5-210. Enforcement -- exhaustion of administrative remedies.**

A person alleging a violation of 20-5-207 through 20-5-210 may seek redress under any available law, either civil or criminal, after exhausting all administrative remedies.

## **REGULATIONS**

#### **10.55.719. Student protection procedures.**

(1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

- (a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;
- (b) substantially and materially interferes with access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of the school.

(2) Behavior prohibited under (1) includes retaliation against a victim or witness who reports behavior prohibited under (1).

(3) "Persistent" as used in this rule can consist of repeated acts against a single student or isolated acts directed against a number of different students.

(4) The behavior prohibited in (1) includes but is not limited to conduct:

- (a) in a classroom or other location on school premises;
- (b) during any school-sponsored program, activity, or function where the school is responsible for the student including when the student is traveling to and from school or on a school bus or other school-related vehicle; or
- (c) through the use of electronic communication, as defined in 45-8-213, MCA, that substantially and materially disrupts the orderly operation of the school or any school-sponsored program, activity, or function where the school is responsible for the student.

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum:

- (a) a prohibition on the behavior specified in (1), regardless of the underlying reason or reasons the student has engaged in such behavior;
- (b) a procedure for reporting and documenting reported acts of behavior prohibited under (1);
- (c) a procedure for investigation of all reports of behavior prohibited under (1)(a) that includes an identification of the persons responsible for the investigation and response;
- (d) a procedure for determining whether the reported act is subject to the jurisdiction of the school district or another public agency, including law enforcement, and a procedure for referral to the necessary persons or entity with appropriate jurisdiction;
- (e) a procedure for prompt notification, as defined in the district policy, of the alleged victim and the alleged perpetrator, or the parents or guardian of such students when the students are minors;
- (f) a procedure to protect any alleged victim of behavior prohibited under (1)(a) from further incidents of such behavior;
- (g) a disciplinary procedure establishing the consequences for students found to have committed behavior prohibited under (1); and
- (h) a procedure for the use of appropriate intervention and remediation for victims and perpetrators.

## **Other special infractions or conditions**

### **LAWS**

#### **20-5-203. Secret organization prohibited.**

(1) It shall be unlawful for any pupil to participate in or be a member of any secret fraternity or other secret organization that is in any degree a school organization. It also shall be unlawful for any pupil or other person to solicit any pupil to join any such prohibited secret fraternity or other secret organization.

(2) Any person violating the provisions of this section shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than \$5 or more than \$25 for each violation.

### **REGULATIONS**

No relevant regulations found.

## ***Prevention and Behavioral Interventions (Non-Punitive)***

### **Prevention**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Behavioral interventions and student support services**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

##### **10.55.719. Student protection procedures.**

(1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

- (a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;
- (b) substantially and materially interferes with access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of the school. [...]

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum: [...]

- (h) a procedure for the use of appropriate intervention and remediation for victims and perpetrators.

### **Professional development**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

## ***Monitoring and Accountability***

### **Formal incident reporting of conduct violations**

#### **LAWS**

##### **20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.**

(5) [...] Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county superintendent immediately of the action.

(6) A teacher has the duty to report the truancy or incorrigibility of a pupil to the district superintendent, the principal, the trustees, or the county superintendent, whichever is applicable.

##### **20-5-105. Attendance officer -- powers and duties.**

The attendance officer of a district:

(5) may, subject to district policy, keep a record of transactions for the inspection and information of the trustees and shall make reports in the manner and to whomsoever the trustees designate;

#### **REGULATIONS**

##### **10.55.719. Student Protection Procedures.**

(1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

(a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;

(b) substantially and materially interferes with access to an educational opportunity or benefit; or

(c) substantially and materially disrupts the orderly operation of the school. [...]

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum: [...]

(b) a procedure for reporting and documenting reported acts of behavior prohibited under (1);

## **Parental notification**

#### **LAWS**

##### **20-1-213. Transfer of school records.**

(8)(a) By November 1 and March 1 of each school fiscal year, a local educational agency shall prepare a report to be provided to the director of the Montana youth challenge program subject to subsections (8)(b) and (8)(c) containing the name, last-known address, and dates of attendance of a student who:

(i) is at least 16 years of age but less than 19 years of age;

(ii) was enrolled but is no longer enrolled in a school in the district;

(iii) has not provided school transfer or graduation information to a school in the district; and

(iv) has not received a high school diploma or a high school equivalency diploma.

(b) After preparing the report in accordance with subsection (8)(a), a local educational agency shall provide written notice to the parent or guardian of the student or to the student if the student is at least 18 years of age or is under 18 years of age and emancipated that the agency intends to provide the report to the director of the Montana youth challenge program. The parent or guardian or the student must be given the opportunity to object to the planned disclosure of the information. If the parent or guardian or the student fails to respond to the notice within 30 days, the local educational agency shall forward the report to the director of the Montana youth challenge program.

#### **20-5-106. Truancy.**

(2) If an attendance officer discovers a child is truant, the attendance officer may make a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child that the continued truancy of the child may result in the prosecution of the parent, guardian, or other person responsible for the care of the child under the provisions of this section. If the child is discovered to be truant after the attendance officer has made a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child, the attendance officer may require that the parent, guardian, or other person responsible for the care of the child and the child meet with an individual designated by the school district to formulate a truancy plan to address and resolve the truancy. If the parent, guardian, or other person responsible for the care of the child fails to meet with the designated individual or fails to uphold the responsibilities under the provisions of the truancy plan, the attendance officer may refer the matter to the prosecuting attorney in a court of competent jurisdiction for a determination regarding whether to prosecute the parent, guardian, or other person responsible for the care of the child.

#### **20-5-201. Duties and sanctions.**

(4) (b) A school district that decides to withhold a pupil's grades, diploma, or transcripts from the pupil and the pupil's parent or guardian pursuant to subsection (4)(a) shall:

(i) upon receiving notice that the pupil has transferred to another school district in the state, notify the pupil's parent or guardian in writing that the school district to which the pupil has transferred will be requested to withhold the pupil's grades, diploma, or transcripts until any obligation has been satisfied;

### **REGULATIONS**

#### **10.16.3346. Special education. Aversive treatment procedures.**

(8) When an aversive treatment plan is incorporated in the IEP, the parents must be informed that their consent to the IEP includes consent for the aversive treatment plan. Failure to obtain consent is subject to due process proceedings under ARM 10.16.3507 through 10.16.3523.

(9) Parents must be informed as soon as possible, but no less than 24 hours after the procedure is used, in writing, or orally if in writing is not possible, in their native language each time an aversive procedure is implemented on their child.

#### **10.55.719. Student protection procedures.**

(1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

(a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;

- (b) substantially and materially interferes with access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of the school. [...]

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum: [...]

- (e) a procedure for prompt notification, as defined in the district policy, of the alleged victim and the alleged perpetrator, or the parents or guardian of such students when the students are minors;

## **Reporting and referrals between schools and law enforcement**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **10.55.719. Student protection procedures.**

(1) A local board of trustees shall adopt a policy designed to deter persistent threatening, insulting, or demeaning gestures or physical conduct, including an intentional written, verbal, or electronic communication or threat directed against a student or students regardless of the underlying reason for such conduct, that:

- (a) causes a student physical or emotional harm, damages a student's property, or places a reasonable fear of harm to the student or the student's property;
- (b) substantially and materially interferes with access to an educational opportunity or benefit; or
- (c) substantially and materially disrupts the orderly operation of the school. [...]

(5) Each local board of trustees has discretion and control over the development of its policies and procedures regarding behavior prohibited under (1), but each district's policies and procedures must include at a minimum: [...]

- (d) a procedure for determining whether the reported act is subject to the jurisdiction of the school district or another public agency, including law enforcement, and a procedure for referral to the necessary persons or entity with appropriate jurisdiction;

## **Disclosure of school records**

### **LAWS**

#### **20-1-213. Transfer of school records.**

(1) Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99, and to the provisions of the Individuals With Disabilities Education Act, 20 U.S.C. 1411 through 1420, and its implementing regulations at 34 CFR, part 300, local educational agencies and accredited schools shall adopt a policy that a certified copy of the permanent file, as defined by the board of public education, and the file containing special education records of a student will be forwarded by mail or electronically to a local educational agency or accredited school in which the student seeks or intends to enroll within 5 working days after a receipt of a written or electronic request.

(2) If records cannot be forwarded within 5 days, the local educational agency or accredited school shall notify the requestor in writing or electronically providing the reasons why the local educational agency or

accredited school is unable to comply within the 5-day timeframe and the local educational agency or accredited school shall provide the date by which the requested records will be transferred.

(3) A local educational agency or accredited school may not refuse to transfer files because a student owes fines or fees.

(4) The files that are forwarded must include education records in the permanent file, special education records, and any disciplinary actions taken against the student that are educationally related.

(5) A local educational agency or accredited school may release student information to the juvenile justice system to assist the system's ability to effectively serve, prior to adjudication, the student whose records are released under provisions of 20 U.S.C. 1232g(B)(1)(E) of the Family Educational Rights and Privacy Act of 1974, as amended. The official to whom the records are disclosed shall certify in writing to the sending official that the information will not, except as provided by law, be disclosed to any other party without prior written consent of the parent of the student.

(6) The superintendent of public instruction is encouraged to contact other states or provinces and may enter into reciprocal records transfer agreements with the superintendent of public instruction or a department of education of any state or province. The superintendent of public instruction shall supply a copy of any reciprocal records transfer agreement that is executed to the county superintendent of each county that may be affected by the agreement.

(7) Upon request, the local educational agency or accredited school shall transfer by mail or electronically a copy of the permanent file to a nonpublic school or facility.

(8)(a) By November 1 and March 1 of each school fiscal year, a local educational agency shall prepare a report to be provided to the director of the Montana youth challenge program subject to subsections (8)(b) and (8)(c) containing the name, last-known address, and dates of attendance of a student who:

- (i) is at least 16 years of age but less than 19 years of age;
- (ii) was enrolled but is no longer enrolled in a school in the district;
- (iii) has not provided school transfer or graduation information to a school in the district; and
- (iv) has not received a high school diploma or a high school equivalency diploma.

(b) After preparing the report in accordance with subsection (8)(a), a local educational agency shall provide written notice to the parent or guardian of the student or to the student if the student is at least 18 years of age or is under 18 years of age and emancipated that the agency intends to provide the report to the director of the Montana youth challenge program. The parent or guardian or the student must be given the opportunity to object to the planned disclosure of the information. If the parent or guardian or the student fails to respond to the notice within 30 days, the local educational agency shall forward the report to the director of the Montana youth challenge program.

(c) The report provided by the local educational agency may not include a student who:

- (i) is receiving medical care or treatment that prohibits school attendance;
- (ii) is enrolled in a foreign exchange program;
- (iii) is enrolled in an early admissions college program;
- (iv) is participating in a job corps program, an adult basic education program, or an accredited apprenticeship program; or
- (v) is excused from school for a reason determined acceptable by the local educational agency.

(d) The official to whom the information in subsection (8)(a) is provided shall certify in writing to the local educational agency that is providing the information that the information will not be disclosed to any other party except as necessary to recruit and retain students.

(9) As used in this section, "local educational agency" means a public school district or a state-funded school.

#### **20-5-201. Duties and sanctions.**

(4) (b) A school district that decides to withhold a pupil's grades, diploma, or transcripts from the pupil and the pupil's parent or guardian pursuant to subsection (4)(a) shall:

- (i) upon receiving notice that the pupil has transferred to another school district in the state, notify the pupil's parent or guardian in writing that the school district to which the pupil has transferred will be requested to withhold the pupil's grades, diploma, or transcripts until any obligation has been satisfied;
- (ii) forward appropriate grades or transcripts to the school to which the pupil has transferred;
- (iii) at the same time, notify the school district of any financial obligation of the pupil and request the withholding of the pupil's grades, diploma, or transcripts until any obligations are met;
- (iv) when the pupil or the pupil's parent or guardian satisfies the obligation, inform the school district to which the pupil has transferred; and
- (v) adopt a policy regarding a process for a pupil or the pupil's parent or guardian to appeal the school district's decision to request that another school district withhold a pupil's grades, diploma, or transcripts.

### **REGULATIONS**

#### **10.55.909. Student records.**

(1) Each school shall keep, in secure storage, a permanent file of students' records, that shall include:

- (a) the name and address of the student;
- (b) his/her parent or guardian;
- (c) birth date;
- (d) academic work completed;
- (e) level of achievement (grades, standardized achievement tests);
- (f) immunization records as per 20-5-406, MCA;
- (g) attendance data; and
- (h) the statewide student identifier assigned by the Office of Public Instruction.

(2) The local board of trustees shall establish policies and procedures for the use and transfer of student records that are in compliance with 20-1-213, MCA, and state and federal laws governing individual privacy. All educational records collected and maintained by a school shall be kept in a confidential manner according to the implementing regulations of the Family Educational Rights and Privacy Act (FERPA) at 34 CFR part 99.

(3) The local board of trustees shall develop a process for destruction of records pursuant to 20-1-213, MCA, including nonpermanent student records. Nonpermanent student records are records retained in a central file maintained by the school containing a student's cumulative educational records, which are not retained as a student's permanent record detailed in (1).

(4) All inactive permanent records from a school that closes shall be sent to the county superintendent or the appropriate county official.

#### **10.55.910. Student discipline records.**

(1) Each school shall maintain a record of any disciplinary action that is educationally related, with explanation, taken against the student. When a local board of trustees takes disciplinary action against a

student, the board must take minutes of the action taken, with detailed explanation, even if the disciplinary action is decided during a closed session. For the purpose of this rule, a disciplinary action that is educationally related is an action that results in the expulsion or out-of-school suspension of the student. This record must be maintained/destroyed consistent with Montana Local Government Records Schedule 7, and is subject to transfer to a local educational agency, accredited school, or nonpublic school pursuant to 20-1-213, MCA.

## **Data collection, review, and reporting of disciplinary policies and actions**

### **LAWS**

#### **20-5-202. Suspension and expulsion.**

(2)(a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school under this subsection must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis. The trustees shall annually review its weapons policy and any policy adopted under this subsection (2)(a) and update the policies as determined necessary by the trustees based on changing circumstances pertaining to school safety.

### **REGULATIONS**

No relevant regulations found.

## ***School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers***

### **Authority and power to implement school arrest**

#### **LAWS**

##### **20-5-104. Attendance officer.**

In order to enforce the compulsory attendance provisions of this title, each district shall have at least one person serving as an attendance officer according to the following requirements:

- (1) districts of the first class and districts of the second class with a dropout rate higher than the statewide average dropout rate as calculated by the office of public instruction shall appoint one or more of the district's staff as attendance officers;
- (2) districts of the second class with a dropout rate at or below the statewide average dropout rate as calculated by the office of public instruction and districts of the third class may appoint one or more of the district's staff as attendance officers; or
- (3) the county superintendent must be the attendance officer in third-class districts that do not appoint an attendance officer.

##### **20-5-105. Attendance officer -- powers and duties.**

The attendance officer of a district:

- (1) must, subject to district policy, be vested with police powers, the authority to serve warrants, and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;
- (2) may, subject to district policy, take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct the child to the school in which the child is or should be enrolled;
- (3) may, subject to district policy, do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;
- (4) may, subject to district policy, institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;
- (5) may, subject to district policy, keep a record of transactions for the inspection and information of the trustees and shall make reports in the manner and to whomever the trustees designate; and
- (6) may, subject to district policy, perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district.

##### **20-5-106. Truancy.**

- (1) For the purposes of this part "truant" or "truancy" means the persistent nonattendance without excuse, as defined by district policy, for all or any part of a school day equivalent to the length of one class period of a child required to attend a school under 20-5-103.
- (2) If an attendance officer discovers a child is truant, the attendance officer may make a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child that the continued truancy of the child may result in the prosecution of the parent, guardian, or other person responsible for the care of the child under the provisions of this section. If the child is discovered to be truant after the attendance officer has made a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child, the attendance officer may require that the parent, guardian, or other

person responsible for the care of the child and the child meet with an individual designated by the school district to formulate a truancy plan to address and resolve the truancy. If the parent, guardian, or other person responsible for the care of the child fails to meet with the designated individual or fails to uphold the responsibilities under the provisions of the truancy plan, the attendance officer may refer the matter to the prosecuting attorney in a court of competent jurisdiction for a determination regarding whether to prosecute the parent, guardian, or other person responsible for the care of the child.

(3)(a) If convicted, the person shall be fined not more than \$100, ordered to perform up to 20 hours of community service, or required to give bond in the penal sum of \$100, with sureties, conditioned on the person's agreement to cooperate with the district in implementing the truancy plan provided for in subsection (2) for the remainder of the current school term.

(b) If a person fails to comply with an order of the court issued under subsection (3)(a), the person may be imprisoned in the county jail for a term of not more than 3 days.

(4)(a) If the child is discovered by the attendance officer to be truant on 9 or more days or 54 or more parts of a day in 1 school year, the child may be referred to youth court as habitually truant under Title 41, chapter 5.

(b) Following a referral to youth court under subsection (4)(a), an attendance officer shall inform the youth court of any subsequent trancies by the child, and the youth court may find the child to be a youth in need of intervention pursuant to 41-5-103 and make any of the dispositions provided in 41-5-1512."

#### **20-5-107. Incapacitated and indigent child attendance.**

In lieu of the provisions of 20-5-106 and when an attendance officer is satisfied that a pupil or a child subject to compulsory attendance is not able to attend school because the child does not have the physical capacity or the child is absolutely required to work at home or elsewhere in order to provide support for the child or the child's family, the attendance officer shall report the case to the authorities charged with the relief of the poor. The welfare authorities shall offer relief that will enable the child to attend school. If the parent, guardian, or other person who is responsible for the care of the child denies or neglects the assistance offered to enable the child to attend school, the child must be committed to a state institution, at the discretion of the court.

#### **REGULATIONS**

No relevant regulations found.

### **Certification or training**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **MOUs, authorization, and/or funding**

#### **LAWS**

No relevant laws found.

## **REGULATIONS**

No relevant regulations found.

## ***State Education Agency Support***

### **State model policies and implementation support**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Funding appropriations**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

## ***Other or Uncategorized***

### **Professional immunity or liability**

#### **LAWS**

##### **20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty -- defense.**

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or more than \$500.

(8) A person named as a defendant in an action brought under this section may assert as an affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined by the trier of fact.

#### **REGULATIONS**

No relevant regulations found.

### **Community input or involvement**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

## **Other or Uncategorized**

#### **LAWS**

##### **20-5-502. Enrollment by caretaker relative -- residency -- affidavit.**

(3) If the child was subject to formal disciplinary action, including suspension or expulsion, at the child's previous school, the school district in which the caretaker relative seeks to enroll the child may either implement the previous school district's disciplinary action without further due process or hold a hearing and determine whether the student's conduct in the previous school district merits denial of enrollment. If the district decides to enroll the child, then the school district may require the child to comply with a behavior contract as a condition of enrollment.

#### **REGULATIONS**

No relevant regulations found.

## State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Montana provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Montana Office of Public Instruction, Emergency Planning and Safety	Provides comprehensive emergency management trainings, on-line modules, and technical assistance for public and private schools across Montana on topics of disaster/emergency planning, environmental safety, internet safety, school climate, and violence prevention.	<a href="http://opi.mt.gov/Programs/HealthTopics/index.html?gpm=1_6">http://opi.mt.gov/Programs/HealthTopics/index.html?gpm=1_6</a>
Montana Office of Public Instruction, Bully Free Montana	The Office of Public Instruction is providing resources for schools, parents, and students as we work at the state and local level to take on the challenge of bullying.	<a href="http://opi.mt.gov/Programs/TitlePrgrams/SafeSchools/bully.html">http://opi.mt.gov/Programs/TitlePrgrams/SafeSchools/bully.html</a>
<i>Documents</i>		
Montana Office of Public Instruction, Bully Free Montana: A Toolkit for Educators, Families, and Students	Guidance materials for creating a safe and respectful learning environment in Montana schools.	<a href="http://opi.mt.gov/pdf/Bullying/14BullyFreeToolkit.pdf">http://opi.mt.gov/pdf/Bullying/14BullyFreeToolkit.pdf</a>
Montana Office of Public Instruction, Bullying, Intimidation, and Harassment Prevention School Policy	Provides background and discussion regarding the need for school policy and procedures to prevent bullying, intimidation and harassment in schools.	<a href="http://opi.mt.gov/pdf/safeschools/BullyingPolicy.pdf">http://opi.mt.gov/pdf/safeschools/BullyingPolicy.pdf</a>
Montana Office of Public Instruction, Model policy for School Districts on Harassment, Intimidation, and Bullying	For all schools to use to help them revise and edit their current policies.	<a href="http://www.opi.mt.gov/pdf/safeschools/ModelBullyingPolicy.pdf">http://www.opi.mt.gov/pdf/safeschools/ModelBullyingPolicy.pdf</a>
Montana Office of Public Instruction, Model School District Policy Bullying, Harassment, Intimidation, and Hazing of a Student	Model bullying policy.	<a href="http://www.opi.mt.gov/pdf/Bullying/ModelBully_FreePolicy.pdf">http://www.opi.mt.gov/pdf/Bullying/ModelBully_FreePolicy.pdf</a>

Title	Description	Website address (if applicable)
<i>Other Resources</i>		
No relevant resources found		