

## OUT-OF-DISTRICT ATTENDANCE AGREEMENTS

reference: §§ 20-5-320 – 20-5-324, MCA

A school in the district where a student resides must admit the student so long as the student also meets age and enrollment requirements. Generally speaking, a student's residency is determined by the residency of that student's parents, parent with primary legal custody, or guardian. In addition, there are some circumstances in which a student may choose to go outside of the student's **district of residence** and enroll in a school in the student's **district of choice**.

### When may a child attend a district outside their district of residence?

Depending on the student's circumstances, sometimes the district of choice is required to accept that student's enrollment, and sometimes enrollment is at the district of choice's discretion.

- Mandatory enrollment by the district of choice. In the following situations, the district of choice is required to accept enrollment for a student outside the student's district of residence:
  - the school in the district of choice is closer than the school in the district of residence and the student resides more than 3 miles from the district of residence school, and the resident district does not provide transportation
  - the geographic conditions make it impractical for the student to attend school in the district of residence; this determination is made by the county transportation committee based on statutory criteria (greater than 1-hour bus trip one way for an elementary student; a 40 mile trip on a dirt road or 60 mile trip total one way from the student's residence to the school on the shortest passable route; the condition of a road or a geographic barrier such as a river or mountain pass creates a hazard)
  - the student is a member of a family that is required to send another student outside of the elementary district to attend high school, the elementary student may more conveniently attend elementary school in the same district as the high school, and the student lives more than 3 miles from the school in the district of residence
  - the student is under the protective care of a state agency or as been adjudicated to be a youth in need of intervention or a delinquent youth
  - the student is required to attend school outside the district of residence as the result of being placed in foster care or a group home
- Discretionary enrollment by the district of choice. The district of choice has the discretion whether to admit a student from outside the district in the following situations:
  - The student's parent or guardian wishes to enroll the student in a district outside the district of residence or in a state or province that is adjacent to the county of the student's residence
  - Districts may agree to approve enrollment in educational program offerings not provided by the district of residence, such as kindergarten or grade 7 and 8 programs
  - When the enrollment is discretionary, **both** the district of choice and the district of residence must approve the attendance agreement, except that if the district of choice waives tuition for a student, the approval of the district of residence is not required

### What is the process for enrolling outside the district of residence?

Mandatory Enrollment: For a student who is eligible for mandatory enrollment in the district of choice, the parent or guardian, a state agency, or a court must complete an out-of-district attendance agreement in consultation with an appropriate official in the district of choice. The trustees of the district of choice must notify the county superintendent in the county of the student's residence within 10 days of approval of the agreement and must also submit the agreement to the superintendent of public instruction when the state is the entity responsible for tuition payment. The trustees of the district of choice may only disapprove an agreement for a student eligible for mandatory enrollment if the trustees find that, because of insufficient room and

overcrowding at the school to be attended, acceptance of the student would adversely affect a school's accreditation status; this exception does not apply to a student with a disability who also resides in the district.

Discretionary Enrollment: The parent or guardian of a student who would like to enroll at the discretion of the trustees of the district of choice must initiate the process. The district of choice must have an attendance agreement form (developed by the Superintendent of Public Instruction) to be used. The parent must apply to the board of trustees in the district of choice. The trustees in the district of choice have 10 days to notify the parent and the trustees of the district of residence of the anticipated date of approval or disapproval of the agreement. Then, within 10 days of making the decision, the district of choice trustees must notify the parent and the district of residence. Once the district of residence receives an approved agreement, its trustees have 15 days to approve or disapprove the agreement and send the completed agreement to its county superintendent of schools, the district of choice trustees, and the parent. The parent may appeal a disapproval or a lack of action to the county superintendent and then the Superintendent of Public Instruction.

### **How much does it cost to send a student to the district of choice?**

The basic rule for tuition is that the board of trustees in the district of choice may set the tuition at any amount up to a cap of 20% of the maximum per-ANB amount in the year of attendance. A district may choose to waive tuition entirely, but any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.

Exceptions to the basic rule:

- Tuition for **a student with a disability** must be calculated under rules adopted by the Superintendent of Public Instruction for special education students (see ARM 10.16.3818)
- For a student who is enrolled because the student is a) under the protective care of a state agency or has been adjudicated to be a youth in need of intervention or a delinquent youth, or b) the student has been placed in foster care or a group home, and **that student does not have a disability but does require a program with costs that exceed the average district costs**, the tuition is to be calculated at the actual individual costs, minus 80% of the maximum per-ANB rate in the year of attendance, not to exceed \$2500

For transportation costs, the amount charged may not exceed the lesser of the average transportation cost per student in the student's district of residence or \$0.35 a mile.

### **Who pays the student's tuition costs if the district of choice does not waive tuition?**

There are three different entities who may be responsible for paying the student's tuition:

- The parent or guardian: When a student is attending a school in the district of choice under the discretionary enrollment provisions, the parent may be charged tuition and may also be charged for transportation. The parent is also responsible when a student is enrolled under the mandatory enrollment provisions because the student's sibling attends a high school outside the elementary district of residence.
- The district of residence: The district of residence must pay the tuition costs for a student enrolled in a district of choice because a) the two districts have an attendance agreement in place; b) the school in the district of choice is closer than the school in the district of residence; or c) the geographic conditions make attendance in the district of residence impractical
- The state (OPI, DPHHS, or DOC): The state is responsible for paying the tuition costs for a student is enrolled in a district of choice under the mandatory enrollment provision when that student is a) under the protective care of a state agency or has been adjudicated to be a youth in need of intervention or a delinquent youth, or b) the student has been placed in foster care or a group home. The state is also responsible for paying any costs for a student who is placed by a state agency in an out-of-state residential facility.