

Montana Code Annotated 2021

20-5-102. Compulsory enrollment and excuses. (1) Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the board of public education pursuant to **20-7-111** until the later of the following dates:

- (a) the child's 16th birthday; or
- (b) the date of completion of the work of the 8th grade.

(2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when the parent, guardian, or person establishes residence in the district unless the child is:

- (a) enrolled in a school of another district or state under any of the tuition provisions of this title;
- (b) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;
- (c) excused from compulsory school attendance upon a determination by a district judge that attendance is not in the best interest of the child;
- (d) excused by the board of trustees upon a determination that attendance by a child who has attained the age of 16 is not in the best interest of the child and the school; or

(e) enrolled in a nonpublic or home school that complies with the provisions of **20-5-109**. For the purposes of this subsection (2)(e), a home school is the instruction by a parent of the parent's child, stepchild, or ward in the parent's residence and a nonpublic school includes a parochial, church, religious, or private school.

20-5-103. Compulsory attendance and excuses. (1) Except as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to attend the school in which the child is enrolled for the school term and each school day in the term prescribed by the trustees of the district until the later of the following dates:

- (a) the child's 16th birthday; or
- (b) the date of completion of the work of the 8th grade.

(2) The provisions of subsection (1) do not apply in the following cases:

- (a) The child has been excused under one of the conditions specified in **20-5-102**.
- (b) The child is absent because of illness, bereavement, or other reason prescribed by the policies of the trustees.
- (c) The child has been suspended or expelled under the provisions of **20-5-202**.
- (d) The child is excused pursuant to **20-7-120**.

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 second-class or 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 as defined in **41-5-103** and make any of the dispositions provided in **41-5-1512**.

20-5-108. Tribal agreement with district for Indian child compulsory attendance and other agreements. It shall be the duty of the trustees of any district where an Indian child resides to require the child to attend school in the same manner as any other child residing in the district, unless it is prohibited by the laws or treaties affecting the Indian tribe of which such child is a member or the Indian reservation on which such child resides. When such a prohibition exists, the trustees of any district shall have the authority to accept from the tribal council or other governing body of the Indian tribe or the Indian reservation authorization to enforce the compulsory attendance provisions of this title and compel the school attendance of the Indian children belonging to the tribe or residing on the reservation.

20-5-109. Nonpublic school requirements for compulsory enrollment exemption. To qualify its students for exemption from compulsory enrollment under **20-5-102**, a nonpublic or home school:

- (1) shall maintain records on pupil attendance and disease immunization and make the records available to the county superintendent of schools on request;
- (2) shall provide at least the minimum aggregate hours of pupil instruction in accordance with **20-1-301** and **20-1-302**;
- (3) must be housed in a building that complies with applicable local health and safety regulations;
- (4) shall provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to **20-7-111**; and
- (5) in the case of home schools, shall notify the county superintendent of schools of the county in which the home school is located in each school fiscal year of the student's attendance at the school.

20-5-110. School district assessment for placement of a child who enrolls from a nonaccredited, nonpublic school. The trustees of a school district shall:

- (1) adopt a district policy on assessment for placement of any child who enrolls in a school of the district and whose previous place of instruction was a nonpublic school that is not accredited;
- (2) include in the adopted policy the following provisions:
 - (a) the specific assessment for placement to be administered to any child subject to the provisions of subsection (1);
 - (b) a procedure for grade and program placement of the child based on results of the assessment for placement, including considerations for the age and identified abilities of the child; and
 - (c) a hearing process before the board of trustees of the district if the parent or guardian of a child is not in agreement with the placement of the child and requests a hearing before the board; and
- (3) administer the adopted policy required in subsection (1) in a uniform and fair manner.

20-5-111. Responsibilities and rights of parent who provides home school. Subject to the provisions of **20-5-109**, a parent has the authority to instruct the parent's child, stepchild, or ward in a home school and is solely responsible for:

- (1) the educational philosophy of the home school;
- (2) the selection of instructional materials, curriculum, and textbooks;
- (3) the time, place, and method of instruction; and
- (4) the evaluation of the home school instruction.

20-1-301. School fiscal year. (1) The school fiscal year begins on July 1 and ends on June 30. At least the minimum aggregate hours required in subsection (2) must be conducted during each school fiscal year, except that 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient. The minimum aggregate hours required in subsection (2) are not required for any pupil demonstrating proficiency pursuant to **20-9-311(4)(d)**.

- (2) The minimum aggregate hours required by grade are:
 - (a) 360 hours for a half-time kindergarten program or 720 hours for a full-time kindergarten program, as provided in **20-7-117**;
 - (b) 720 hours for grades 1 through 3; and
 - (c) 1,080 hours for grades 4 through 12.
- (3) Except for a circumstance related to an unforeseen emergency pursuant to Title 20, chapter 9, part 8, for any elementary or high school district that fails to provide for at least the minimum aggregate hours, as listed in subsections (1) and (2), to any pupil not demonstrating proficiency pursuant to **20-9-311(4)(d)**, the superintendent of public instruction shall reduce the BASE aid for the district for that school year by two times an hourly rate, as calculated by the office of public instruction, for the aggregate hours missed by each pupil not demonstrating proficiency pursuant to **20-9-311(4)(d)**.

20-1-302. School term, day, and week. (1) Subject to **20-1-301**, **20-1-308**, and any applicable collective bargaining agreement covering the employment of affected employees, the trustees of a school district shall set the number of days in a school term, the length of the school day, and the number of school days in a school week and report them to the superintendent of public instruction.

- (2) When proposing to adopt changes to a previously adopted school term, school week, or school day, the trustees shall:
 - (a) negotiate the changes with the recognized collective bargaining unit representing the employees affected by the changes;
 - (b) solicit input from the employees affected by the changes but not represented by a collective bargaining agreement; and
 - (c) solicit input from the people who live within the boundaries of the school district.

20-1-303. Conduct of school on Saturday or Sunday prohibited -- exceptions. (1) Except as provided in subsections (2) and (3), pupil instruction may not be conducted on Saturday or Sunday.

(2) In emergencies, including during reasonable efforts of the trustees to make up aggregate hours of instruction lost during a declaration of emergency by the trustees under **20-9-806**, pupil instruction may be conducted on a Saturday when it is approved by the trustees of the school district.

(3) Pupil instruction may also be held on a Saturday at the discretion of a school district for the purpose of providing additional pupil instruction beyond the minimum aggregate hours of instruction required in **20-1-301**, provided that student attendance is voluntary.