



March 17, 2020

**TO: The Office of The Governor**  
**ATTN: Raph Graybill, Chief Legal Counsel**  
**RE: School Flexibility Requests Through Emergency Orders**

The OPI greatly appreciates the Governor's continued consideration of the OPI's requests to waive statutory requirements which restrict the local school districts from planning and administering their schools during this period of school closure.

**Request 1:**

Please have the Governor consider issuing a waiver of requirements in section 20-1-301, MCA, as the OPI had requested in its email of 3/15/2020. Pursuant to your request during the meeting of 3/16/2020, I provide the following proposed language for the Governor:

*I am waiving any penalties that could affect Montana school districts that do not meet aggregate hours as required in section 20-1-301, MCA. This waiver does not relieve school districts from providing equitable educational services for students for the remainder of the school closure. I strongly advise school districts to work on providing equitable access to educational services, which may be directed to implementing proficiency policies for student learning, thus addressing aggregate hours as set forth in section 20-9-311(4)(d), MCA.*

**Request 2:**

The OPI greatly appreciates the Governor's continued consideration of the OPI's requests to waive statutory requirements which restrict the local school districts from planning and administering their schools during this period of school closure.

Accordingly, the OPI respectfully requests the Governor consider waiving the underlined portions below, in section 20-10-145 and section 20-10-146, MCA. These two statutes control both state reimbursement and county reimbursement payment for school bus transportation. The OPI believes that underlined portions of section 20-10-145 and section 20-10-146, MCA, must be eliminated during the school closure and extending until June 30, 2020, to allow State and county funds for bus transportation reimbursement to continue to flow to local districts during and after the school closure.

The reimbursement provides a portion of a school district's budgeted transportation fund. The school district transportation fund allows districts to pay for district salaries and benefits for staff working in transportation, contracts with pupil transportation providers, and other necessary bussing needs. The OPI requests the underlined sections of the following statutes be waived through June 30<sup>th</sup>, 2020. Under this waiver, the state and county will continue to pay school districts for bus routes but not individual (parent's) transportation contracts. This will be as if the district operated as originally scheduled instead of "actual days." This payment will continue, allowing the districts to provide services for transportation services provided to student for school related instruction which can include delivery of lesson plans, nutritional services, and technology services.

**20-10-145. State transportation reimbursement.**

(1) A district providing school bus transportation or individual transportation in accordance with this title, board of public education transportation policy, and superintendent of public instruction transportation rules must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of [20-10-141](#) and [20-10-142](#). The state transportation reimbursement is one-half of the reimbursement amounts established in [20-10-141](#) and [20-10-142](#) or one-half of the district's transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were actually rendered to transport eligible transportees, as defined in [20-10-101](#), to or from school to participate in the minimum aggregate hours of instruction required pursuant to [20-1-301](#). In determining the amount of the state transportation reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

**20-10-146. County transportation reimbursement.**

(1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment.

The OPI looks forward to discussing this further.

Thank you for consideration of this request. Please contact me with any questions.



**Julia W. Swingley**  
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