

**A.R.M. 10.20.106 STUDENTS PLACED IN EDUCATION PROGRAMS** (1) The state superintendent of public instruction recognizes that a Montana state agency or court may place a Montana student in a facility located within a school district that is not the student's district of residence. The state superintendent of public instruction also recognizes that a district may contract with a private or public entity for the provision of a Montana resident student's education. If a district contracts and pays for the provision of a Montana student's education, the district may include that student in the district's enrollment count for purposes of calculating ANB, provided:

(a) the student, who otherwise qualifies for ANB, is enrolled at district expense in the district on the count date;

(b) the district retains written verification from the contractor documenting the student's participation in the education program on the count date;

(c) either:

(i) the contractor is accredited by the Montana board of public education; or

(ii) the student's education program is under the direction and supervision of the district and is provided by district staff or is provided pursuant to a special education individualized education program implemented by the district, except that the trustees' placement of a resident student in a private, nonsectarian day treatment program and the state's placement of a student in a county or regional detention center are subject to (5);

(d) the contractor is a facility, center, home or other program licensed by and located within the state of Montana, excluding licensed day care centers; and

(e) the student is a resident of the district or meets the attendance with mandatory approval provisions of 20-5-321(1)(d) or (1)(e), MCA.

(2) Payments made to contractors described in (1) are not considered tuition for purposes of applying the provisions in Title 20, chapter 5, part 3, MCA. When a district contracts for a Montana student's education, the cost for such services shall be paid from the district's general fund or from federal funds, provided the cost is an allowable use of the federal funds. Except as provided in (5), districts shall not use the tuition fund for payments to private education programs.

(3) If a student is not a resident of the district of attendance, the district may charge tuition in accordance with Montana law (see ARM 10.10.301).

(4) In accordance with 20-7-422, 20-7-402(4) and 20-5-323(5), MCA, when a child is placed by a Montana state agency in an out-of-state residential facility, the state agency making the placement shall be responsible for paying the education costs of the placement.

(5) The district may not include for purposes of calculating ANB:

(a) a student who is placed in a private, nonsectarian day treatment program. Districts may use the district tuition fund to pay for educational services and may claim an ANB reimbursement payment under provisions of 20-5-324, MCA, and ARM 10.10.106 for a student placed under an IEP in a day treatment program at a private, nonsectarian school located in or outside the child's district of residence; and

(b) a student who has been placed in a county or regional detention facility, which is required under 41-5-1807< MCA, to provide educational programs for youth at county expense. Pursuant to 20-9-130, MCA, districts may use the district tuition fund to pay for detention center educational services charged pursuant to 41-5-1807, MCA. (History: Sec. 20-7-419, MCA; IMP, Sec. 20-5-321, MCA; NEW, 2002 MAR p. 1662, Eff. 6/14/02; AMD, 2003 MAR p. 395, Eff. 3/14/03; AMD, 2004 MAR p. 1613, Eff. 7/23/04.)