OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

MIKE COONEY
LT. GOVERNOR

TO: Montanans; all school districts and officers and agencies of the State of Montana
FROM: Governor Steve Bullock
DATE: July 31, 2020
RE: Directive implementing Executive Orders 2-2020 and 3-2020 and temporarily suspending school district residency requirements for offsite learning

Executive Orders 2-2020 and 3-2020 declare that a state of emergency exists in Montana due to the global outbreak of COVID-19 Novel Coronavirus.

During a declared state of emergency, the Governor may "suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster." Section 10-3-104(2)(a). The Governor may also "control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area." Section 10-3-104(2)(c).

COVID-19 is easily transmissible through close contact with others, particularly in enclosed spaces. By their nature, schools place students, teachers, and staff together in an enclosed space for prolonged periods of time and therefore provide conditions conducive to COVID-19 transmission. At the same time, it is vital to the developmental, social, mental, and educational needs of school-age children that their education continues as undisrupted as can be safely accomplished.

To keep children, teachers, and school staff safe, on March 15, 2020, I issued a Directive temporarily closing schools until March 27, and through several subsequent Directives extended that closure through May 6. The April 22, 2020 Phased Reopening Directive gave schools the option to reopen for in-classroom instruction starting on May 7, allowing local school boards and schools the discretion to develop plans that, based on the circumstances in their communities, met their students' needs and kept their schools safe.

As fall approaches, schools are working hard to plan for the school year in light of the ongoing pandemic. Many districts may choose to offer a blend of in-classroom and remote learning to balance safety with the educational needs of their students. Current law, however, limits the ability of districts who serve out-of-district students to provide offsite delivery of educational services to those students. Accordingly, I find that strict compliance with these requirements will prevent, hinder, or delay necessary action in coping with the ongoing emergency.

Therefore, in accordance with the authority vested in me under the Constitution, Article VI, Sections 4 and 13, and the laws of the State of Montana, Title 10, Chapter 3 and Title 50, Chapter 1, MCA, and other applicable provisions of the Constitution and Montana law, I hereby direct the following

measures be in place in the State of Montana, effective immediately:

- A school district may provide educational services at an offsite instructional setting, including the provision of services through electronic means, to any pupil who (a) meets the residency requirements for that district as provided in § 1-1-215, MCA; (b) resides in the same county as the district; or (c) resides in a school district immediately adjacent to the district.
    - Strict compliance with the provisions of § 20-7-118, MCA, is suspended to the extent it conflicts with the provisions of this Directive.

- This Directive is effective only for the fiscal year ending June 30, 2021.

- This Directive does not supersede any prior Directive except to the limited extent that a prior Directive is in direct conflict with the provisions of this Directive.

Authorities: Sections 10-3-103, -104, -302, and -305, MCA; §§ 50-1-101, 202, -203, and -204, MCA; Executive Orders 2-2020 and 3-2020; Montana Constitution, Art. VI, Sections 4 and 13; and all other applicable provisions of state and federal law.

Limitations

- This Directive is effective immediately and expires on the earlier of June 30, 2021, or the end of the declared state of emergency in Executive Orders 2-2020 and 3-2020.
- This Directive shall be implemented consistent with applicable law and subject to the availability of appropriations.
- Nothing in this Directive shall be construed to limit, modify, or otherwise affect the authority granted by law to the Governor or any department, agency, political subdivision, officer, agent, or employee of the State of Montana, except as provided in this Directive or other Directives now in effect implementing Executive Orders 2-2020 and 3-2020.
- This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.