

Summary of Legal Authority for a School District Mask Mandate

- [Governor's Directive Implementing Executive Order 2-2021](#) – February 12, 2021
- **Correspondence with Governor's Office clarifying Governor's Directive** – February 11, 2021
- ***State, ex rel., Bartmess v. Helena Board of Trustees***, 726 P.2d 801
- **Article X, Section 8:** School district trustees. The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.
- **Definition of the basic system of free quality schools at 20-9-309(2)(h)** preservation of local control of schools in each district vested in a board of trustees pursuant to Article X, section 8, of the Montana constitution.
- **Duties of Trustees 20-3-324:**
 - (7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;
 - (21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to the child;
 - (30) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction.
- **20-5-201. Duties and sanctions. (1) A pupil:**
 - (a) shall comply with the policies of the trustees and the rules of the school that the pupil attends;
 - (b) shall pursue the required course of instruction;
 - (c) shall submit to the authority of the teachers, principal, and district superintendent of the district; and
 - (d) is subject to the control and authority of the teachers, principal, and district superintendent while the pupil is in school or on school premises, on the way to and from school, or during intermission or recess.
- **10.55.701 BOARD OF TRUSTEES**
 - (1) The local board of trustees shall ensure that the school district complies with all local, state, and federal laws and regulations.
 - (2) Each school district shall make available to the staff and public:
 - (d) policies that delineate the responsibilities of the local board of trustees, superintendent, and personnel employed by the school district. The local board of trustees shall review these policies on a regular basis;
 - (s) a policy that addresses student health issues that arise in the school setting.
- **10-3-111. Personnel immune from liability.**(1) The state, a political subdivision of the state, or the agents or representatives of the state or a political subdivision of the state are not liable for

personal injury or property damage sustained by a person appointed or acting as a volunteer civilian defense or other response and recovery activity worker, a volunteer professional, or a member of an agency engaged in civilian defense or other response and recovery activity during an incident, disaster, or emergency. This section does not affect the right of a person to receive benefits or compensation to which the person might otherwise be entitled under the workers' compensation law or a pension law or an act of congress.

(2) The following individuals or entities are not liable for the death or injury of individuals or for damage to property as a result of an act or omission specifically arising out of activities undertaken in response to an incident, disaster, or emergency and while complying with or reasonably attempting to comply with parts 1 through 4 and 12 of this chapter or an order or rule promulgated under the provisions of parts 1 through 4 and 12 of this chapter:

(a) the state or a political subdivision of the state;

(b) except in cases of willful misconduct, gross negligence, or bad faith:

(i) the employees, agents, or representatives of the state or a political subdivision of the state;
or

(ii) a volunteer or auxiliary civilian defense or other response and recovery activity worker, a member of an agency engaged in civilian defense or other response and recovery activity, a volunteer professional, or the owners of facilities used for civil defense or other response and recovery shelters pursuant to a fallout shelter license or privilege agreement or pursuant to an ordinance relating to blackout or other precautionary measures enacted by a political subdivision of the state.

- [Montana Workers' Compensation Coverage COVID-19 Frequently Asked Questions](#) – March 19, 2020