

MONTANA 20-3-201. Election and qualifications -- part-time office allowed. (1) A county superintendent must be elected in each county of the state unless a county manager form of government has been organized in the county. The county superintendent must be elected at the general election preceding the expiration of the term of office of the incumbent. (2) Upon verification by the county clerk and recorder, a person is qualified to file for and assume the office of county superintendent who: (a) is a qualified elector; (b) holds a valid, current class 1 professional certificate, class 2 standard certificate, or class 3 administrative and supervisory certificate issued by the superintendent of public instruction; and (c) has at least 3 years of successful teaching experience. (3) (a) When the office of county superintendent of schools is consolidated with another county office within the county, the officeholder must have the qualifications listed in subsection (2) or shall, with the approval of the governing body, contract for the full performance of the duties required of a county superintendent in [20-3-207](#) and [20-3-210](#) with: (i) another county superintendent, with the approval of the governing body of that county; superintendent. The commissioners also may appoint deputies and assistants for the (iii) a person who: (A) is a qualified elector; (B) holds a valid administrative certificate as provided in [20-4-106\(1\)\(c\)](#); (C) takes the oath of office in [20-1-202](#); (D) is bonded in the manner provided for county officers in Title 2, chapter 9, part 7; and (E) attends instructional training in the duties of a county superintendent as offered by the superintendent of public instruction. (b) Whenever a governing body contracts with a person for performance of the duties required of a county superintendent under the provisions of subsection (3)(a)(iii), the contract must be for at least the duration of 1 school fiscal year. (c) The superintendent of public instruction shall prescribe a contract form to be used. (4) The board of county commissioners may establish the office of county superintendent as a part-time office under the provisions of [20-3-213](#), and adjust the salary established in [7-4-2503](#) to make it commensurate with the reduction in hours. A part-time county superintendent shall perform all duties of that office that are required by law. **History:** En. 75-5802 by Sec. 20, Ch. 5, L. 1971; amd. Sec. 29, Ch. 100, L. 1973; R.C.M. 1947, 75-5802; amd. Sec. 1, Ch. 355, L. 1979; amd. Sec. 1, Ch. 550, L. 1985; amd. Sec. 1, Ch. 76, L. 1991; amd. Sec. 1, Ch. 146, L. 1993. **20-3-202. Term, oath, and vacancy.** (1) The county superintendent shall hold office for a term of 4 years. He shall assume office on the first Monday of January following his election and shall hold the office until his successor has been elected and qualified. (2) Any person elected as the county superintendent shall take the oath or affirmation of office and shall give an official bond, as required by law. (3) If the office of county superintendent becomes vacant, the board of county commissioners shall appoint a replacement to fill the vacancy. Such replacement shall serve until the next regular general election, when a person shall be elected to serve the remainder of the initial term, if there be any remaining term. **History:** En. 75-5803 by Sec. 21, Ch. 5, L. 1971; R.C.M. 1947, 75-5803. **20-3-203. Office costs and staff.** (1) The board of county commissioners shall supply the county superintendent with suitable office space and office supplies. The county superintendent shall be paid from the county general fund all necessary traveling expenses that he actually incurs in discharging his duties, after such expenses have been audited by the board of county commissioners. (2) Upon the county superintendent's recommendation of a candidate, the board of county commissioners may appoint such candidate to the position of chief deputy county (12) complete the budgets, compute the

budgeted revenue and tax levies, file final budgets and budget amendments, and fulfill other responsibilities assigned under the county superintendent. The commissioners shall fix the salaries of the personnel prescribed by this section at 90% or less of the salary of the county superintendent. **History:** En. 75-5804 by Sec. 22, Ch. 5, L. 1971; R.C.M. 1947, 75-5804. **20-3-204. Office hours.** (1) Except for a part-time county superintendent provided for under [20-3-201](#)(4), the county superintendent of schools shall, during the office hours determined by the governing body, keep the office of the county superintendent open each day when the county superintendent is not engaged in the supervision of schools, except legal holidays and Saturdays. However, when the county superintendent has a deputy or clerk, the office must be kept open during the hours determined by the governing body by resolution after a public hearing and consented to by the county superintendent, each day except legal holidays and Saturdays. (2) This section does not apply to counties operating under the county manager plan. **History:** En. Sec. 4323, Pol. C. 1895; re-en. Sec. 2968, Rev. C. 1907; re-en. Sec. 4736, R.C.M. 1921; Cal. Pol. C. Sec. 4116; re-en. Sec. 4736, R.C.M. 1935; amd. Sec. 1, Ch. 108, L. 1949; amd. Sec. 1, Ch. 199, L. 1957; R.C.M. 1947, 16-2414(part); amd. Sec. 2, Ch. 146, L. 1993; amd. Sec. 7, Ch. 216, L. 1995. **20-3-205. Powers and duties.** The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts: (1) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of [20-3-352](#), [20-3-353](#), and [20-3-354](#); (2) administer and file the oaths of members of the boards of trustees of the districts in the county in accordance with the provisions of [20-3-307](#); (3) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of [20-4-202](#); (4) act on each tuition and transportation obligation submitted in accordance with the provisions of [20-5-323](#) and [20-5-324](#); (5) file a copy of the audit report for a district in accordance with the provisions of [20-9-203](#); (6) classify districts in accordance with the provisions of [20-6-201](#) and [20-6-301](#); (7) keep a transcript of the district boundaries of the county; (8) fulfill all responsibilities assigned under the provisions of this title regulating the organization, alteration, or abandonment of districts; (9) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with [20-6-312](#) and [20-6-313](#); (10) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of [20-6-502](#), [20-6-503](#), [20-6-504](#), or [20-6-506](#); (11) process and, when required, act on school isolation applications in accordance with the provisions of [20-9-302](#); the school fiscal year; and provisions of this title regulating school budgeting systems; (13) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of [20-9-211](#); (14) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of [20-9-212](#), [20-9-347](#), [20-10-145](#), or [20-10-146](#); (15) act on any request to transfer average number belonging (ANB) in accordance with the provisions of [20-9-313](#)(3); (16) calculate the estimated budgeted general fund sources of revenue in accordance with the general fund revenue provisions of the general fund part of this title; (17) compute the revenue and compute the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of

county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title; (18) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of [20-10-103](#), [20-10-143](#), or [20-10-145](#); (19) for districts that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of [20-7-204](#) or [20-7-602](#); (20) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of [20-7-605](#) and otherwise comply with the textbook dealer provisions of this title; (21) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of [20-10-205](#); (22) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of regents relating to community college districts, or the rules of the superintendent of public instruction; (23) administer the oath of office to trustees without the receipt of pay for administering the oath; (24) keep a record of official acts, preserve all reports submitted to the superintendent under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to the next superintendent; (25) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county: (a) the total of the cash balances of all funds maintained by the district at the beginning of the year; (b) the total receipts that were realized in each fund maintained by the district; (c) the total expenditures that were made from each fund maintained by the district; and (d) the total of the cash balances of all funds maintained by the district at the end of appropriate school boards. (3) The county superintendent may establish a fund, for which the county treasurer (26) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed. **History:** (1) thru (22)En. 75-5805 by Sec. 23, Ch. 5, L. 1971; amd. Sec. 4, Ch. 266, L. 1977; Sec. 75-5805, R.C.M. 1947; (23) thru (26)En. 75-5807 by Sec. 25, Ch. 5, L. 1971; Sec. 75-5807, R.C.M. 1947; R.C.M. 1947, 75-5805, 75-5807; amd. Sec. 1, Ch. 269, L. 1979; amd. Sec. 15, Ch. 392, L. 1979; amd. Sec. 2, Ch. 511, L. 1979; amd. Sec. 5, Ch. 317, L. 1981; amd. Sec. 1, Ch. 35, L. 1989; amd. Sec. 8, Ch. 11, Sp. L. June 1989; amd. Sec. 2, Ch. 767, L. 1991; amd. Sec. 6, Ch. 563, L. 1993; amd. Sec. 48, Ch. 633, L. 1993; amd. Sec. 4, Ch. 22, L. 1997; amd. Sec. 101, Ch. 584, L. 1999; amd. Sec. 2, Ch. 220, L. 2001; amd. Sec. 6, Ch. 237, L. 2001; amd. Sec. 2, Ch. 151, L. 2003. **20-3-206. Additional positions.** In the capacity as county superintendent, the county superintendent shall also serve as: (1) the chairman of the county transportation committee, as prescribed by [20-10-131](#); (2) an attendance officer for a district under the conditions prescribed by [20-5-104](#); and (3) the clerk of a joint board of trustees under the conditions prescribed by [20-3-361](#). **History:** En. 75-5806 by Sec. 24, Ch. 5, L. 1971; amd. Sec. 2, Ch. 277, L. 1977; R.C.M. 1947, 75-5806; amd. Sec. 5, Ch. 219, L. 1997. **20-3-207. Assist trustees with school supervision.** The county superintendent shall assist the trustees of any district that does not employ a district superintendent or principal with the supervision of their schools by: (1) visiting each school of the district at least once a school year while pupil instruction is being conducted to observe the instructional methods, ability of the teacher, progress and discipline of the

pupils, and the general conditions of the school; (2) special visits to the schools on request of the trustees; (3) advising and directing teachers on instruction, pupil discipline, and other duties of the teacher; (4) consulting with the trustees on all school matters that may be found during the observation of the school or may otherwise come to the attention of the county superintendent. **History:** En. 75-5808 by Sec. 26, Ch. 5, L. 1971; R.C.M. 1947, 75-5808. **20-3-208. Authority to request, accept, and disburse money.** (1) A county superintendent may, with the advice and consent of the appropriate school boards, request and accept money made available from federal, state, or private sources for purposes of public education. (2) Subject to applicable federal and state guidelines and, in the case of money received from private sources, subject to any guidelines fixed by the donor, a county superintendent may, in his discretion, disburse money received under this section to one or more public elementary or high school districts according to their needs. The county superintendent shall supervise the utilization of such money with the approval of the not expressly prescribed. (2) Exhaustion of administrative remedies is not a prerequisite to filing an action in shall maintain a separate accounting, for the deposit of money received under this section. **History:** En. 75-5808.1 by Sec. 1, Ch. 238, L. 1977; R.C.M. 1947, 75-5808.1; amd. Sec. 1, Ch. 182, L. 1979. **20-3-209. Annual report.** The county superintendent of each county shall submit an annual report to the superintendent of public instruction not later than the second Monday in September. The report must be completed on the forms supplied by the superintendent of public instruction and must include: (1) the final budget information for each district of the county, as prescribed by [20-9-134](#)(1); (2) the revenue amounts used to establish the levy requirements for the county school fund supporting school district transportation schedules, as prescribed by [20-10-146](#), and for the county school funds supporting elementary and high school district retirement obligations, as prescribed by [20-9-501](#); (3) the financial activities of each district of the county for the immediately preceding school fiscal year as provided by the trustees' annual report to the county superintendent under the provisions of [20-9-213](#)(6); and (4) any other information that may be requested by the superintendent of public instruction that is within the superintendent's authority prescribed by this title. **History:** En. 75-5809 by Sec. 27, Ch. 5, L. 1971; R.C.M. 1947, 75-5809; amd. Sec. 2, Ch. 35, L. 1989; amd. Sec. 5, Ch. 22, L. 1997; amd. Sec. 2, Ch. 343, L. 1999; amd. Sec. 1, Ch. 276, L. 2003. **20-3-210. Controversy appeals and hearings.** (1) Except for disputes arising under the terms of a collective bargaining agreement or as provided under [20-3-211](#) or [20-4-208](#), the county superintendent shall hear and decide all matters of controversy arising in the county as a result of decisions of the trustees of a district in the county. Only a county superintendent who possesses the qualifications of [20-3-201](#)(2) may hear controversies related to teacher termination. Except as provided in subsection (2), exhaustion of administrative remedies under this chapter is required prior to filing an action in district court concerning a decision of the trustees. When appeals are made under [20-4-204](#) relating to the termination of services of a tenure teacher or under [20-4-207](#) relating to the dismissal of a teacher under contract, the county superintendent may appoint a qualified attorney to act as a legal adviser who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently, either the teacher or trustees may appeal to the district court of the county in which the teacher was employed. The proceedings must be commenced not later than 60 days after the date of the decision of the county superintendent. The county

superintendent shall hear and decide all controversies arising under: (a) [20-5-320](#) and [20-5-321](#) relating to the approval of out-of-district attendance agreements; or (b) any other provision of this title for which a procedure for resolving controversies is (2) The county in which the controversy was initiated shall reimburse the county served by the county superintendent appointed pursuant to subsection (1) for actual costs district court concerning a decision of the trustees of a district in the following instances: (a) a state agency has been granted primary jurisdiction over the matter; (b) the matter is governed by a specific statute; or (c) the board of trustees has acted without jurisdiction or in excess of its jurisdiction. (3) The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. The county superintendent shall prepare a written transcript of the hearing proceedings. The decision on the matter of controversy that is made by the county superintendent must be based upon the facts established at the hearing. (4) Except for teacher termination cases, the decision of the county superintendent may be appealed to the superintendent of public instruction, and if it is appealed, the county superintendent shall supply a transcript of the hearing and any other documents entered as testimony at the hearing to the superintendent of public instruction. In teacher termination cases, an appeal may be filed with the district court of the county in which the teacher was employed no later than 60 days after the date of the decision of the county superintendent. If an appeal is filed, the county superintendent shall provide a transcript of the hearing and any other documents entered as testimony at the hearing to the district court. (5) Cost incurred by the office of the county superintendent must be paid from the general fund budget of the county in which the controversy is initiated.

History: En. 75-5811 by Sec. 29, Ch. 5, L. 1971; amd. Sec. 1, Ch. 306, L. 1974; R.C.M. 1947, 75-5811; amd. Sec. 3, Ch. 489, L. 1979; amd. Sec. 1, Ch. 252, L. 1991; amd. Sec. 1, Ch. 439, L. 1991; amd. Sec. 7, Ch. 563, L. 1993; amd. Sec. 8, Ch. 438, L. 1997. **20-3-211. Disqualification of county superintendent.** A county superintendent may not hear or decide matters of controversy pursuant to [20-3-210](#) when: (1) he is a party to or has an interest in the controversy; (2) he is related to either party in the controversy by consanguinity or affinity within the sixth degree, computed according to the rules of law; (3) either party to the controversy makes and files with the county superintendent of schools an affidavit that he has reason to believe and does believe that he cannot have a fair and impartial hearing before the county superintendent by reason of the bias or prejudice of the county superintendent; or (4) the controversy involves the education or possible identification of a child with a disability. **History:** En. Sec. 1, Ch. 489, L. 1979; amd. Sec. 1, Ch. 236, L. 1987; amd. Sec. 10, Ch. 249, L. 1991; amd. Sec. 99(4), Ch. 51, L. 1999. **20-3-212. The county superintendent to appoint another county superintendent.**

(1) When a county superintendent is disqualified pursuant to [20-3-211](#), that county superintendent must appoint another county superintendent to hear and decide the matter of controversy arising pursuant to [20-3-210](#). interact electronically throughout the state, including, but not limited to, physical connections, wiring, servers, routers, switches, domain name service, and operating of travel, room, and board as a result of the appointment. Such county superintendent is entitled to expenses as provided in [20-3-203](#)(1). **History:** En. Sec. 2, Ch. 489, L. 1979. **20-3-213. Part-time office -- establishment -- restrictions.** (1) A board of county commissioners that intends to establish the office of county superintendent of schools as a part-time office shall: (a)

pass a resolution stating the intent of the board to consider the action; (b) set a date for a hearing on the issue and provide proper notice of the hearing; (c) conduct a hearing and accept testimony from any registered elector of the county who presents evidence for or against the establishment of the part-time office; and (d) within 5 days of the hearing, issue an order regarding the establishment of the part-time office. (2) A board may not issue an order establishing the office of county superintendent as a part-time office less than 7 days before the date on which declarations for nominations may first be filed for the office. (3) A board may not establish the office of county superintendent as a part-time office during a term of office for which a county superintendent has been elected as a full-time officeholder. **History:** En. Sec. 3, Ch. 146, L. 1993.